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Our Industrial Revolution

TRUSTS OR COMPETITION?

BOTH SIDES OF THE GREAT QUESTION IN BUSINESS, LAW AND POLITICS

NETTLETON

1882—$50,000,000.

1900—$5,000,000,000.

TO WHOM IT MAY CONCERN.

Candor requires this word, although it has little importance, except to the writer: I entered upon a study of the trust system, desirous only of ascertaining what were the facts, what the literature of the question revealed and what were the strongest respectable reasons that could be advanced for and against the proposed industrial revolution. Previous casual examination had inclined me to the opinion set forth in Chapter I, namely, that the new movement was legitimate, beneficial and permanent, requiring only regulation and guidance to safeguard the public welfare. So far as I had any material interest in the subject it led in the same direction. My investigation extended through the greater part of a year. Wherever possible (and I had some special facilities) I went to original sources for information, both at home and abroad. The results of my search were subjected to as candid and thorough consideration as I was able to give to one of the most absorbing economic and ethical problems ever confronted by mankind. My sincere and unqualified conclusions are substantially summarized in the leading propositions set forth in "The Argument Against the Trust," in Chapter II, and in the latter part of Chapter V, entitled "Concerning Remedies." In a word, I have emerged from my study of the monopoly-trust movement profoundly convinced (1) that it is fundamentally wrong in theory and incurably evil in operation; (2) that, in the luminous words of President Hadley of Yale, it is a system which "makes increased economy in production a pretext for monopolizing the market;" (3) that its claimed advantages, so far as they are legitimate, are equally attained by corporations and concerns engaged in modern large-scale production with adequate capital, without any resort to monopoly; (4) that the trust system forcibly adds to natural industrial development, which all approve, the alien element of arbitrary monopoly, which none should tolerate; (5) that (unless it is to serve as a stepping-stone to socialism) the trust system will endure only until the people give to their highest courts an opportunity to apply the law, not to its regulation, which would be futile, but to its removal, which is entirely practicable. For this radical reversal of opinion on a great and pressing question, I offer no word of apology.

A. B. NETTLETON.

SIZE OF THE TRUST PROBLEM.

The 130 principal trusts and consolidations in the United States, each capitalized at $10,000,000 or more, named herein (see Chapter XI), represent an aggregate capital in stock and bonds, as follows:

Common Stock	$2,784,218,000
Preferred Stock	1,141,643,000
Bonds	88,288,000
	$4,014,149,000
Estimated combined capital (stock and bonds) of general corporate trusts in the United States of less than $10,000,000 each	600,000,000
Estimated capital (stock and bonds) of local corporate trusts in the United States, each having a virtual monopoly in its own field, not including tramway or transportation companies, syndicates, "combines" or other trade agreements	385,851,000
Approximate grand total	$5,000,000,000

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OUR INDUSTRIAL REVOLUTION—Is It a Substitution of Monopoly for Competition?—The Case Stated—The Argument for the Trust—The Argument Against—The Origin and Development of Trusts—Manner of Formation—Nature, Working and Effect—Uses and Abuses—Are They Permanent or Transient?—Their Relation to the Workingman, to the Farmer, to General Business and the Public Welfare—Effect on the Smaller Cities and Towns—Effect on Prices of Commodities—Is "Competition the Life of Trade?"—Ethics and Economics of the Subject—Expert Opinions, Favorable and Unfavorable—Monopolies, Old and New—Concerning the Struggle for Existence and Survival of the Fittest—List of All Principal Industrial Trusts in the United States, with Names, Capital, Scope, etc.—Organized Labor and Organized Capital—Synopses of All State and Federal Anti-Trust Laws—Leading Court Decisions—The Trust in Politics—The Tariff and Trusts—Does the Trust System Shut the Door of Opportunity for Young Men?—Trust Remedies—Shall Trusts be Regulated or Suppressed?—Is a Trust a Natural Evolution or Caused by Monopoly-Hunger?—The Trusts and Traveling Men—Banks and the Trusts—Attitude of Press and Pulpit—Does the Trust System Lead to Socialism?—A Chapter of Possible History (A. D. 1925)—The Colleges and the Trusts: Statements of Views by Professors of Political Economy at Leading Colleges and Universities—A Sketch and Defense of the Standard Oil Trust—Editorial Comment Thereon—Do Trusts Prevail in Europe?—The Law and the Trusts—Are Trusts Legally Invulnerable?—Strong Affirmative Argument by an Eminent Lawyer—Attitude of American Courts Toward Monopoly—Principal Addresses at National Non-Partisan Conference on Trusts, September, 1899—Views of Hon. William J. Bryan—Recommendations Affecting Trusts by Presidents Harrison, Cleveland and McKinley—The Question of Department Stores.

TRUSTS OR COMPETITION?

BOTH SIDES OF THE GREAT QUESTION IN BUSINESS, LAW AND POLITICS.

EDITED BY

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INTRODUCTORY NOTE.

EDITORIAL ROOMS, AMERICAN MONTHLY REVIEW OF REVIEWS,
New York, December 22, 1899.

My Dear General Nettleton:

I am more than ever impressed, after attending the Chicago Conference on Trusts and Combinations, with the thought that what we need most of all at the present stage of the discussion is enlightenment. Great advances have been made of late in medical science by reason of a wholly new care and skill in diagnosis. Firing heavy artillery into the tree-tops is not the best way to kill squirrels, nor is bird-shot at short-range effective against modern fortifications. In medicine, in hunting, and in war, men adapt means to ends. It should also be true in statesmanship that when men endeavor to rid the body politic of an ailment, they should understand the history and nature of the disease.

We have entered upon a new period in the history of the business world, that seems to have grown logically, if not inevitably, out of a century of invention and organization which has enormously multiplied the volume of productive capital. The situation involves changes so sharp and so varied as to cause practical loss and hardship to tens of thousands, and serious apprehension to others by the hundreds of thousands. It is a situation that concerns everybody, and that unquestionably calls for a certain amount of governmental action. But before such action can be taken wisely or conclusively a great deal must be known, both as to principles and as to facts.

We are beginning to create a body of literature on the subject of trusts and combinations of capital that will be very useful in the preliminary work of education. I am glad to know that you are editing a book on this timely subject; and with my knowledge of your exceptional qualifications for obtaining and presenting the mature views of the best thinkers on all phases of the questions at stake, I am confident that the book will be not only welcome, but widely useful.

Sincerely yours,

ALBERT SHAW.

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PREFACE.

Since the civil war no question has so profoundly stirred the thought and interest of the American people as the now uppermost one of the Industrial Trust. With four-fifths of the great manufacturing industries of the country practically consolidated, each under a single ownership, and with competition in those industries largely eliminated, the well-nigh universal apprehension and discussion are justified. Two squarely opposite opinions are held concerning the trust movement. One regards it as a natural and probably inevitable outgrowth of modern economic conditions, and, therefore, to be welcomed and utilized as previous generations accepted, adjusted themselves to, and profited by, modern machinery and the factory system. The other holds it to be an artificial development, an economic impertinence, a forced substitution of private monopoly for open competition, rendered possible by special causes and constituting a dangerous assault upon the public welfare. One side contends that at most the trust system should be guided and regulated by law, to prevent possible abuses and assure the greatest advantage from its advent. The other side as stoutly contends that inasmuch as private monopoly is always and everywhere a public enemy, and effective competition a necessary safeguard of the people, palliatives are either out of place or of only transient importance, while complete suppression of the trust through a prompt return to a competitive system, is the only adequate remedy.

The literature of the trust question has been mainly of a fugitive character, scattered through a wilderness of periodicals and special pamphlets, and hence inaccessible to all except the few who have had both the patience and the opportunity for

research. Current debate in the public press and from the platform is necessarily disconnected and usually presents one side to the exclusion or distortion of the other. The modest aim of the writer has been, first, to gather from all sources and then present in compact form a sufficient body of authentic information regarding all aspects of the trust problem to furnish the basis for intelligent opinions and conclusions, and, second, to supply opportunely a public forum where each side in a great debate may be heard at its best and usually in the words of its ablest exponents and advocates.

There was a choice of two ways for presenting a summary of the argument on either side. One would have taken the usual form of a colorless and balanced memorandum, satisfactory perhaps to students, but dry and ill-adapted to the general public, for whom the book is specially designed. By the other method, which has been employed, the editor has endeavored to present for each side, with something of the realism of actual debate, the strongest summarized argument that can be honestly framed out of the material furnished by all who have publicly contributed anything of value to the discussion or to the literature of the subject—leaving each reader to draw his own conclusions. In other words, while the book is non-partisan, these arguments are fairly bi-partisan. This method also gave opportunity for putting a mass of unclaimed but valuable material through the editorial crucible and bringing it out in something like symmetrical shape. If it shall seem that the argument against the trust is somewhat more strenuous in style than the argument for the trust, it will be borne in mind that the former speaks for a multitude who feel that by the trust system they are wronged, ethically as well as economically—that it is not merely a matter of dollars and cents but of fair-play and manhood.

Chicago, January, 1900.

OUR ECONOMIC REVOLUTION.

We are in the midst of a sweeping change which may fitly be termed an Economic Revolution. It sharply affects the welfare of every man, woman and child in the Republic and promises to have an even greater influence on coming generations than on ourselves, for its effects are likely to be progressive and cumulative. We of the present can neither feel nor see the results in their entirety. The change is fundamental, not superficial nor incidental. It involves not simply the adoption of novel business methods, but the substitution of a new economic principle in place of that which has regulated trade, industry and nearly every form of human endeavor, since history began. The novelty, suddenness and magnitude of this movement do not necessarily argue for or against its desirability, but they do challenge and compel the most prompt and thorough scrutiny.

Since the beginnings of civilization, and with steadily increasing urgency, competition in business has been a necessity, wholesome though irksome, confronting and environing everyone engaged in the struggle for existence. Naturally in the early history of a race and in new or pioneer communities, competition along most lines is at its minimum, because under such conditions wants are few and natural resources and opportunities abundant in proportion to the sparse population. But even at the dawn of history Abram and Lot with their somewhat pugnacious herdsmen found the grass supply insufficient for their respective flocks and herds on the slopes

of Canaan, so that "the land was not able to bear them that they might dwell together." Their compromise agreement to separate and thereafter supply beef and mutton to wholly different communities, instead of waging a mutually destructive competitive warfare, was sound political economy as well as good neighborhood.

The time is not very long past when kings' favorites were often exempted from the operation of this law of life through royal grants, called monopolies, conferring the exclusive right to carry on a given business in the community. These special privileges did not stand for any economic principle. They did not constitute even an attempt to solve any problem or to promote the common welfare. They simply represented, in the passing childhood of the race, the weakness of a monarch yielding to the greed and importunity of a courtier. They rendered the general burden heavier by so much as the favored few were relieved. Then followed swarms of private monopolies for all conceivable purposes, sold by the crown or the state at auction or otherwise, to individuals or companies as a means of raising needed revenue. This policy was at times carried so far that monopolies became the rule and open competition the exception. In 1623 the Monopolies Act was passed by the English Parliament, abrogating all such grants and permanently fixing the attitude of the nation and of the English-speaking race as anti-monopolistic. Much of the odium then attaching to the term monopoly has adhered to it down to the present day. Both in the popular mind and in the eye of the law it represented and still represents the negation of economic fair play.

For a long period this reaction against special trade privileges undoubtedly hampered and retarded industrial and commercial progress by prohibiting all forms of business association which could even theoretically restrain competition and thus threaten a return or approach to monopoly. Both the courts and the people

were morbidly jealous of the inevitable tendency toward such association of capital and effort, and the common law, largely built up out of the judicial decisions of the time, reflected and to some extent or in some sections still reflects, this over-conservative spirit. It is only during the last half of the nineteenth century both in England and the United States that the old bondage has been thrown off and almost entire freedom of business association established. To-day in both countries, and the same is largely true of Continental Europe, any number of persons, absolutely without limit from three upward, may form themselves into a corporation for almost any lawful business purpose, frequently with no limitation as to amount of capital, and usually at slight expense and by simple legal formalities under general statutes. This new liberty and facility of association and combination of capital, skill and endeavor undoubtedly account largely for the fact that in the past fifty years the commercial nations have made more progress than during the previous ten centuries. The new economics and statesmanship recognize that within certain broad lines it is far better, both for the individual and for society, to have this freedom of contract with corresponding freedom of association and combination, even if microscopic and detailed competition be sometimes thereby incidentally restrained, than it would be to have absolutely unrestrained competition at the sacrifice of that commercial and industrial freedom.

Concurrently with the development and the enjoyment of this economic liberty has developed the marked modern tendency toward large-scale production in the interest of greater economy and efficiency. Larger and still larger manufacturing plants and proportionately increased equipments of capital have become the conspicuous feature of the industrial world, with competition raised to a higher level, somewhat humanized and rendered more scientific. From this has come great advantage to the community.

To the accuracy of the foregoing sketch most thinking persons would agree. But here we come to the parting of the ways:

(1) Intelligent advocates of the modern trust system claim that it is only the natural and ultimate step in that economic progress whose previous stages nearly all have observed and approved; it is the normal outworking of the principle and practice of competition; it is itself the ideal form of competition, giving to society the fruits and benefits of competition without its waste and inhumanity.

(2) Intelligent opponents of the modern trust system contend that it is unnatural; a perversion of the currents of economic advance; a violent ejectment or suspension of the principle of competition, and, in proportion to its success and prevalence, a return by another road to the odious reign of monopoly. They believe that the trust system will do one of two things, either force society forward prematurely to a crude and possibly disastrous system of state ownership, or compel society in self-defense to make a partial return upon the road, by renewing the application of common-law restraints to the freedom of contract, association and combination. They remind us that civilization means liberty with law. They hold that always and everywhere under the new civilization the law, both written and unwritten, which has accompanied and conditioned the modern freedom of contract, association and combination has said to every citizen: Your industrial freedom must be exercised within the lines of public welfare, which is secured by effective competition; you have broad liberty of combination for rightful ends, you have none for purposes injurious to society; you may associate and combine to compete; you shall not associate and combine to monopolize. They insist that, whatever may be the fact in England since the decision of the Mogul Steamship case, our American jurisprudence, our legislation and our uni-

form application of the common law unite with unbroken custom and with public sentiment to uphold this view.

The line of cleavage is distinct. The issue is simple when stripped of rubbish, of vituperation and of irrelevant debate about details of responsibility and of remedies. The trust system is defended by the statement of this broad proposition: All are free to compete; where there is freedom to compete there can be no monopoly; where there is no monopoly there is no occasion for complaint. And this answer is made: A system of effective competition is essential to the public welfare; where there is freedom or power to combine for the purpose of monopoly, effective competition is impossible. The trust system consists of the exercise of the power to combine for the purpose of monopoly; to whatever extent it prevails or survives, effective competition is suppressed. The two things are incompatible; they cannot exist in the same field at the same time.

But in all this sharp conflict of ideas and of interests there is no standing room for the pessimist. The Anglo-Saxon race never yet encountered an economic problem which it did not solve, and this one of the trust is to be no exception.

It is true of all revolutionary changes that their results are neither so good nor so bad as optimists and pessimists respectively predict. So in the case of the trust movement the outcome will probably represent a medium between the expectations of its champions and the apprehensions of its opponents.

WHICH MOST NEEDS "PROTECTION?"

CHAPTER I.

THE ARGUMENT FOR THE TRUST.

Free Competition a Failure—Not a Permanent Economic Law—Advantages of the Trust System—Consumers, Producers and Workmen Benefited—Commercial Panics Prevented—Organized Labor and Organized Capital—Lower Prices and Better Goods—Enlargement of Foreign Trade—Trusts Not Monopolies—Certain Criticisms Answered—Legal Basis of the Trust—The Unified Industry a Permanent Institution.

The merits claimed for the trust system by those who are prominently and responsibly connected with it, and by those economists who have only a scientific or professional interest in the theme, but who have reached conclusions favorable to the new movement, can be briefly and clearly stated, for they are mostly on the surface of things. In the following summary of reasons why the trust has come and why it ought to be accepted as a good and permanent thing, the Editor has aimed to winnow from the copious literature of the subject, and then reproduce in his own words, every argument which, because of its character or its source, is entitled to place. Possibly here and there some arguments of the future have been anticipated. Not all of these reasons could properly be attributed to, nor perhaps would all be accepted by, any one advocate of the new movement as a whole.

I. Free Competition a Failure Under Modern Conditions.—In the process of economic development free and unregulated competition may cease to be preserva-

tive, and become destructive, of healthful business, and thus of the general welfare. Competition, from being the "life of trade" may become the destroyer of all that which makes trade most valuable to the community. Such a point has been reached in some lines of industry in the United States and elsewhere. In those industries unified ownership and management can be used to limit or prevent actual competition without destroying the competitive principle, and with benefit alike to consumers and to those engaged in production.

Except in those pursuits where there is no occasion for tense business rivalry, free competition is commercial warfare and is accompanied by practically all the evils of genuine war except the actual killing and maiming of men. And even here the parallel is not wholly wanting. Every victory in the competitive conflict means a defeat for the other side, and where defeat means bankruptcy and a broken spirit, physical death not only results in myriads of cases, but is often a welcome refuge from a tempest of disaster. In competition the battle is emphatically to the strong, often regardless of whether the strength be of the noble or ignoble sort. The highways of business are strown with the wrecks of fortunes, of hopes, of families, of homes and of lives. Nothing is sacred when it stands in the way of the iron law of the survival of the fittest. Whether necessarily or not, yet with absolute certainty, the Golden Rule goes out when unbridled competition comes in. Even John Stuart Mill, the unbending apostle of the Let Alone theory, leaves the beaten road of economic discussion long enough to paint a lurid and truthful picture of the evils of the unending competitive battle—evils for which he could suggest only the slightest alleviation.

And this warfare has grown more severe and more destructive of wealth, of happiness and of life with the advance of civilization. With the ever-progressive invention and application of novel methods and machinery,

larger and larger plants and greater and greater capital have become necessary in the manufacturing industries. Year by year it has been found that the smaller establishments cannot successfully compete with the larger ones. The latter by mere reason of greater capacity and output can accomplish economies which alone equal a fair profit and which leave the smaller competitors out of the race. Hence the necessity for the smaller to enlarge by consolidation and adopt the best modern methods or go to the wall. And this process goes on in an ever ascending scale. The factories which yesterday were largest and led the trade are to-day distanced by new concerns of still greater proportions and capital, capable of introducing still greater economies and cutting cost of production to still lower figures. The industrial giants of ten years ago have been dwarfed by the greater giants of the present, and they must themselves enlarge, consolidate with each other, or sink investment and go out of business through the gateway of insolvency. Obviously all this could have but one ending, and it has come in the form of a massing of all important competitors in a single corporation, with a general truce to warfare. The individual manufacturer in an unorganized industry where competition is keen, often finds himself between the upper and nether millstone—the labor-union forcing wages up, without regard to profits of the business, and bull-headed competition among manufacturers, usually approved by an ill-informed public sentiment, forcing prices down. Between these two opposite and converging forces the manufacturer stands, like the fabled prisoner, the walls of whose cell slowly but steadily moved inward upon their waiting and uncomfortable victim. From such a predicament it is not strange that the proposal to join a trust should prove a welcome escape.

Waste Through Competition.—While the main elements of waste through competition are set forth else-

where in this argument under the sub-title, "Reduction in Cost of Producing," etc., reference to one aspect of this fact is in place here. Under free competition, when failure is threatened to a defeated competitor, the invested capital cannot be withdrawn and applied elsewhere. A modern manufacturing plant is almost absolutely worthless for any purpose except the special one for which it was built and equipped. If it cannot be run at a profit in that specialty, it ceases to be an asset and becomes junk. The investment is a total loss. Hence the tenacity with which beaten manufacturers cling to a lost cause, hoping against hope, continuing a battle that has already gone against them, struggling with increased desperation the nearer the final catastrophe. The waste of wealth due to unrestrained competition would, if saved, go far to enrich the community every year. And this waste finally falls for the most part on the general body of consumers—the much enduring public. Disaster to any industry usually means misfortune to society, and conversely the steady prosperity of the manufacturing industries of a people is both the index and a leading cause of good times for all classes.

Free competition is not a permanent and universal economic law, as gravitation is a permanent and universal physical law. Old-time economists so regarded it, as the ancients believed the sun moved round the earth, but in both respects the world is wiser at the dawning of the 20th century. Absolutely free competition is desirable wherever and whenever it will produce results which are better than those that any other policy would produce. At other times and under other conditions it should and does give place, first to restraint and regulation and then by mutual agreement among competitors, if need be, to varying forms and degrees of monopoly. Natural monopolies, or monopolies of situation, are familiar to all and complained of by few—street railways, gas and water works, telegraph, telephone, etc.

Now comes, through the orderly evolution of economic forces, an additional form of so-called monopoly, under which several competitive establishments, asking no special privileges from any source, are merged into one corporation or concern under a single ownership and management, and for the frankly avowed purpose of getting the maximum of advantage from the largest possible aggregation of capital, talent and influence; adjusting supply to demand, and of eliminating competition as completely as practicable, thus assuring continuous prosperity to the consolidated industry, satisfactory profits and dividends to its allied owners, and incidental but inevitable benefit to employes and the general public.

II. Reduction of Cost of Producing and Marketing Commodities.—The magnitude of this economy in production and distribution under the trust system of associated capital with competent management, is scarcely realized by the general public. Thus: (1) The unified industry will presumably be directed by the ablest men previously identified with its several units, and this fact is the main guaranty of success for the new organization. It is safe to assume that sentiment and favoritism will seldom have influence in selecting managers and high-class employes from the assortment of trained talent at the disposal of each trust. A purpose to secure the greatest possible efficiency of organization and direction will govern, except in those ill-born combinations which the folly of their projectors has doomed to short and malodorous careers. (2) Each manufacturing plant will be utilized for producing only the kind and grade of goods for which, by its capacity, equipment and location it is best adapted. It is a leading weakness of the competitive system that in many industries each separate company feels bound to manufacture several grades of goods, and then to market them throughout the entire country. (3) The business and mechanical methods, including patented features, of the most modern and suc-

cessful establishments will be applied to all. (4) Raw material, being purchased on the largest possible scale by the most expert buyers and by a concern having ample capital and high credit will be obtained at lowest possible prices, of better uniform quality and with assurance of timely supply. (5) There will be little or no temptation to adulteration of goods, or the doing of inferior work, both of which damage the offending concern in the long run, and uniform standards of commodities can be adopted and maintained, to the equal advantage of the manufacturer and the public. (6) The aggregate of stocks of goods necessarily kept on hand will be greatly diminished with proportionate reduction of interest, storage charges, insurance and deterioration from shop wear, etc. (7) Losses from bad credits will be practically eliminated through the absence of undue pressure to sell, and a more thorough system of scrutinizing the financial condition of customers. (8) An enormous economy will result from the reduction in marketing expenses. Under the new system the large item for traveling salesmen and for various forms of advertising can usually be reduced by 90 per cent. Duplicated and overlapping effort in this wide field is done away with. (9) Great saving results from the shipping of goods from the factory situated nearest to the customer, instead of shipping from a single center to all parts of the country. (10) The best brain, energy and skill of all the factories will be utilized in harmonious and systematic work to a common profit-producing end, instead of being largely wasted and worse in a campaign of mutual circumvention, if not of mutual destruction.

III. Advantages to Employes.—Reason and experience lead to the conclusion that many important benefits must accrue from the trust system to the workmen employed in the industries affected.

(a) Steadiness of employment and certainty of pay. —It would be a very stupidly managed corporation which,

having practical control of an industry for the whole country, could not and would not so conduct its affairs as to keep its various plants in operation with a degree of constancy not approachable under conditions of free competition, and observation shows that this is in fact accomplished. Every well-informed person knows that the shutting down of a plant even for a short period causes a serious loss and manufacturers avoid such a step except under compulsion. Under trust methods production can be seasonably regulated to suit probable trade requirements, instead of alternately glutting the market with unneeded wares at unprofitable competitive prices, and then closing down factories and laying off the force to await consumption and renewed demand. If improved methods and the readjustments made necessary by the change to the trust system tend at first to displace a small percentage of wage-earners, this tendency is offset by the increased demand for labor to supply the goods for new foreign markets opened by these great combinations of capital and aggressive energy.

(b) Better Wages.—Starvation wages to artisans are almost invariably due to low profits or no profits for proprietors. Mill owners who are prospering fairly well are, as a rule, glad to share that prosperity with the workmen who contribute to produce it. And this need not be mainly from humane motives, but simply because it is "good business." It is a chief indictment against the old system of free competition that it always and everywhere crowds down wages by abnormally crowding down prices and profits; and, what is still worse, that system creates a sort of chronic "submerged tenth" among manufacturers who are always cutting prices to forces sales and realize needed cash, and is ever driving a certain percentage of employers into insolvency or enforced retirement from business through liquidation, which means in each case throwing the factory hands

into idleness and their families into distress. Industrial history proves that the leading trades controlled by trusts have paid better and steadier wages than most others conducted under the system of free competition.

(c) Better Relations Between Labor and Capital.—Higher wages with steady employment will naturally remove nine-tenths of the usual causes of friction between employer and employed. But other influences are at work which make for peace and a good understanding under the new system of unified industries. Jealousies and rivalries between competing companies, which often spread to the men of each concern, are done away. Substantially all who work in a given line are under one employer, and will naturally feel a sense of solidarity, which is not possible where several employers are at swords-points with each other. Then in case of questions arising which need adjustment, committees of the workingmen have but one authority to confer with instead of a dozen or fifty, a fact which tends to assure prompt and reasonable action. One concern will not be tempted to hire away the best men of another or to tamper with the loyalty of expert employes. In one great and permanent organization, covering an entire industry, systems of insurance, profit-sharing, old age pensions, and other beneficial aids for workingmen are possible and probable, which would be wholly impracticable in smaller, weaker and scattered establishments.

As to apprentices.—This vexed problem can be more easily solved under the new system than under the old. Uniformity of practice and requirements can be applied which shall be just to each trade and fair to the lads who wish to enter the ranks of skilled labor.

IV.—Benefits to the Public.—If it were to be shown that the trust, or the system of unified industries, is necessarily and on the whole hostile to the public welfare, by that fact its doom would be sealed and a limit fixed to its duration. No important economic movement

can be long-lived which plainly runs counter to the best interests of mankind. From this elemental fact springs the assurance that even if the worst fears of pessimists prove well-grounded, our present retrograde industrial revolution will be set aside like any other spurious reform and the normal order restored. But following are the reasons urged by advocates of the new departure for believing that it will bring to the masses of the people, as they say it clearly does to the manufacturers and their workmen, advantage and not injury:

1. Banishment of War Methods.—If the evils of unrestrained competitive warfare heretofore outlined approach in magnitude the estimate given even by the stoutest defenders of that system, and if the trust movement will materially modify those evils without generating greater ones, then, to that extent, it stands justified as a change beneficial to society at large. To whatever extent industrial and commercial peace is made to supplant industrial and commercial war, good and not evil is done. The accusers of the trust system concede that it does bring, coextensively with its scope, mitigation and often termination of competitive strife; but they charge that it produces countervailing wrongs which leave as a net result general injury and not benefit. This is denied, and will be considered further on.

2. A Needed Industrial Balance Wheel.—Besides harmonizing by unifying a given industry, the trust system, in proportion to its adoption and prevalence, provides a regulating and steadying force in the business life of the country which nothing else, not even the banking system, has been able to furnish, and which has incalculable value. Without its balance-wheel and governor the steam engine would tend to run away with itself and produce disaster. The industrial community under the reign of free competition is an engine without any regulating element. In prosperous times or periods of active demand manufacturing establishments multi-

ply, built on the hopes and overconfidence of sanguine and often inexperienced men; producing capacity is increased absurdly beyond any possible average consumption; then comes the inevitable glut and depression; the aggregate demand is not sufficient to keep one-half the plants running, yet each holds out as long as possible rather than face the loss of closing down, thus aggravating by still further overproduction a trade condition already dangerous. The end comes in unprofitable prices, starvation wages, then failures of the weaker concerns, stress and strain for the stronger ones, loss of employment for workmen and extinguishment of their purchasing power, and last, if other conditions favor a crisis, the industrial breakdown sets the pace, gives the signal, and the community finds itself in the midst of that periodic insanity—a financial panic, with its terror and widespread ruin. This, in substance, is the undulating history of nearly every manufacturing community, though, of course, the circumstances infinitely vary and a dozen minor causes may contribute to the untoward result.

Here comes the new force—association, combination, consolidation, the trust. Assuming that it is successful, it removes by the very logic of its existence most of the temptation to this industrial expansion and ballooning in times of general prosperity, and thereby equally removes, within its sphere, the possibility of ensuing collapse and commercial catastrophe. The sagacious and cool-headed managers of the unified industry see to it that, while manufacturing capacity is kept fully equal to maximum demand, it does not foolishly outrun it. They have no temptation to permit serious overproduction, with consequent cessation of profits. They make very sure that their particular industry prospers with the general prosperity, and when the ebb-tide sets in they are in position to adjust their affairs to the change without shock, without friction, without hard-

ship to employes, without loss of solvency, and hence without contributing to panic conditions and possibilities. A great industry so organized and so conducted, with its business interests, connections and influence ramifying throughout the country, is surely a conservative and preservative power. This steadying force, this element of general commercial safety, can be made to render a service to society, in the prevention of panics, which alone will compensate for any apparent or minor drawbacks of the trust system.

3. Lower Prices and Better Goods.—Under the head of "Reduction of cost of manufacturing and marketing commodities," we have already named several elements of benefit to the general public, such as better protection against unsanitary practices and adulteration of goods, greater facility in otherwise exercising the police powers of the state over industrial methods and establishments. But, unless the trust system is to prove a failure, the fundamental advantage which it is to confer upon the public must be the furnishing of better goods at lower prices than the system of competitive war would supply. This is the theoretical, the logical and it must be the actual outcome or the trust has no sufficient excuse for being. Its advocates contend that up to date every well-matured trust has accomplished this result, and the doubter is pointed, for examples, to the price and quality of our common illuminant, kerosene oil, under the Standard Oil Trust, as compared with the prices and quality prior to the existence of the present practical monopoly; the same as to the price and quality of sugar since the arrival of the Sugar Trust.

Where apparent exceptions to this rule occur they will be found to be due to one of three causes, no one of which is necessarily a reflection upon, or an argument against, the typical or ideal trust: A rise in price of a commodity following the formation of a trust is usually due (a) to the fact that such formation followed a period

of competitive depression and unprofitable prices, making a reasonable rise to a profit-producing level justifiable; (b) to the fact that the organization was coincident in time with a general business "boom," with increased demand and advancing prices in all lines, as in 1899; (c) or to the fact that the particular trust is for the time being in the hands of unwise managers who foolishly assume that control of a practical monopoly gives license to "get all you can from the public." Such managers will learn better some day or they will land their business in a bog.

The only legitimate and sufficient reasons for changing over an industry from the system of free competition to the consolidation plan are, (1) that peace is better than war and (2) that out of the resulting economies and other advantages of the trust-method there is created a fund which can be and will be used to give owners better and more regular profits, workmen higher and steadier wages, and consumers better goods at lower prices.

4. Enlargement of Our Foreign Trade.—The severest critic of the trust system must admit that the recent phenomenal growth of our trade with foreign nations has been singularly coincident with the movement for consolidating or unifying our great industries. A careful analysis of that growth shows that it is not mere coincidence, but that the two events bear the relation of cause and effect, so far as that trade expansion affects manufactured products. Nothing but the vast aggregation of capital, knowledge and experience known as the trust could have accomplished such startling and gratifying results. Warring and relatively weak manufacturers, jealous of each other and largely ignorant of foreign trade conditions and requirements, could never have met and vanquished foreign competition and invaded foreign markets as our great modern corporations have done and can evidently continue to do with increasing efficiency. The value to our whole country of this

enlargement of our trade which is only a promise of greater things along the same line, can scarcely be estimated. Our producing capacity is at least double our own people's consumption. An outlet was absolutely necessary for our surplus, and that outlet has been provided largely by the much criticised trusts.

5. Opportunities for Investment.—One of the greatest benefits that can be conferred upon society is to furnish to all classes a continuing opportunity for investing savings or other surplus capital in a manner that shall be reasonably safe and reasonably remunerative. The recent scarcity of such opportunities has been keenly felt by multitudes of people whose dependence is wholly or partly on the income from invested funds. These include thousands whose sex, age or physical condition prevents their engaging in bread-winning pursuits. To these in common with the general public the unification and capitalization of industries now progressing furnish a form of investment at once convenient and satisfactory. If half that is said against the purposes of the trusts is true their net earnings are pretty sure to be sufficient to make the securities issued by them both safe and profitable, and this in spite of those occasional consolidations which are unwisely or dishonestly launched or managed. "Industrials" are already a widely popular form of investment.

Another aspect of this same matter of investments is almost equally salutary and important, namely, the wide distribution of these securities, and hence of ownership in the trusts throughout this country. It is the greatest possible mistake to suppose that the bulk of the stock and bonds of these great industrial organizations are locked up in the vaults of the rich. Doubtless men of wealth and great moneyed institutions avail themselves of the opportunity to get their share of what they believe to be a good thing, but a far greater proportion is passing into the hands of the thrifty middle class

throughout the country, in amounts graduated to the requirements of persons of small or moderate means. The conservative effect of such a condition of things is readily recognized.

6. Advantage to Owners.—It is not irrelevant to mention last, as an element of benefit to the public, the advantage which industrial consolidation usually brings to those citizens who have been the proprietors of manufacturing plants under the competitive system and who almost universally continue to be interested, at least, as stockholders, in the resulting trust, when an industry is consolidated. These citizens are surely a part of the public, and their legitimate prosperity should not be a matter of indifference, much less of offense, to their fellow men, if, as is stoutly insisted, that prosperity involves no detriment, but rather advantage to the people at large.

V. Some Criticisms Answered.—Objections to the trust method of handling great industries, though formidable in appearance, are reduced by analysis to those mentioned below, and while some of them are of such a nature that they can be finally answered only by a comprehensive experiment with the new plan, they are entitled to attention here.

The Displacement of Employes.—The change to the new system undoubtedly involves an important readjustment of industrial forces. Some out-of-date and unprofitable factories here and there will certainly be dismantled and the work which they have previously done poorly and expensively, will thereafter be done well and cheaply in the large, modern and perfectly equipped establishments owned by the trusts, or, when required, new, favorably located factories will be built to meet the demand. But the process of weeding out the "have-beens" among factories is only slightly hastened by the coming of the trust. The competitive struggle for existence with survival of the fittest was

everywhere doing the same work of elimination. Then it must be remembered the consumption of commodities will go on and go on increasing even more rapidly under the trust system than before, and at least as many articles or units of production must be turned out as ever. There can be no material reduction in the number of manual days' work required in factories, except as improved machinery progressively displaces hand-labor—and this change is not due to the trust. In other words, the trust movement will shift the location of some workingmen; it will temporarily displace a few others by running one factory on full time the year round in place of running two on short time or spasmodically, but after a brief period of rearrangement and allowing for steady growth of demand for goods, the industrial change cannot diminish the aggregate demand for labor or otherwise impair the condition of the artisan class.

The apprehension is expressed in some quarters that under the new system, which removes the workman still further from his actual employer, the tendency will be to make the duties and position of the factory employe more perfunctory and machine-like, and himself a fixture in his place and vocation, thus impairing his independence, his interest in his work and causing him to deteriorate in manhood and mental alertness. Solicitude in this respect is probably groundless. In practice the workmen will usually recognize absolutely no change in their surroundings in the plant where they are employed, because of its passing into the hands of a trust. No detrimental effect upon employes has been observed in those trusts which have had greatest duration and experience. A similar accusation was seriously brought against the factory system a generation ago. Of this parallel instance President Hadley of Yale in his work, "Economics" (1898), speaking of the charge, that the factory system tends to deprive the laborer of independence, and reduce him to the position

of a machine says, "we may safely deny that this change is causing an intellectual decline among the masses."

Traveling Salesmen.—The discontinuance of the services of many traveling salesmen comes under a different rule. It is to be frankly admitted that this line of employment, which is so closely identified with the outgoing competitive system, will be seriously interfered with by the pending change, and that many worthy and able men will need to adjust themselves anew to the work of life. As the leading argument for the trust is a sweeping economy in cost of producing and marketing commodities, the effect of this economic change must fall somewhere, and the traveling salesman happens to be the one whose services become well-nigh unnecessary under the new way of carrying on an industry, because those services have represented a part of the waste of the former system. The case is almost an exact parallel to the effect produced upon a humbler class of employes when the introduction of modern machinery and the factory system displaced hand-labor. In both cases genuine hardship temporarily ensues to those directly affected. There is friction and naturally indignant protest at the displacement, but a great forward movement in economic development never has been and never can be obstructed by personal considerations of this nature. On the other hand, the displaced artisans of other days were surprised at the promptness with which their services were again required and absorbed under the wonderful impetus given to industry by the revolution which at first seemed so threatening. In 1865 nearly a million and a half of men were suddenly released from four years of military service on either side in our civil war. Scarcely one had preserved any connection with his former calling or pursuit. From generals to privates practically all of that bronzed host were "out of a job." Great suffering and grave disorders were predicted before the veterans of North and South could be provided

with vocations—could accomplish this tremendous readjustment of their lives. What actually occurred astonished even the most optimistic of political economists. The two armies melted away into their respective communities; there was no perceptible congestion, little friction or suffering, and by the time the grass had grown again on naked earthworks and trampled battlefields, every able-bodied soldier of the blue and the gray was busy in some bread-winning pursuit. The typical "drummer" is, by the very logic of his success in that vocation, a particularly energetic and resourceful person. Such men, even in mature life, are wanted. New doors will open.

To a large extent the same reasoning applies to those middlemen, commission dealers, factors and small independent proprietors who are displaced or crowded out by the coming of the new industrial system.

Trusts Not Monopolies.—The final and most serious-looking indictment brought against the trust is that it constitutes a private monopoly and therefore, in the words of Mr. Bryan, is "indefensible and intolerable." While a beneficial private monopoly can be imagined, let it be conceded for the present that a virtual private monopoly of the production and sale of any commodity of general use (such monopoly not being a natural monopoly, like a street railway, nor one authorized by law in the public interest, like a patent on an invention) would be contrary to public policy, unfair to consumers and hence not permissible. Then there remains this defense of the modern trust—that it is not in any economic or reasonable sense a monopoly. Monopoly of the sort here meant is defined by the economists and law writers to be "such a control of any commodity or service as enables the one exercising that control to hold prices higher than they would be under free competition." For the most part the so-called trusts are simply big corporations produced by the imperious economic necessity of

greater concentration and aggregation of capital and skill in given lines of production. Competition has compelled combination. In such cases it is a mere question of how large a corporation may be in capital and output and not expose itself to criticism and to the supposed odium of the nickname "trust." All great corporations of this general class carry on their business in face of more or less actual competition—and any effective competition is wholly incompatible with the idea or the appellation of monopoly. Obviously if they are daily encountering effective competition they cannot hold prices at an artificial or uneconomic level.

Potential Competition.—Now consider those trusts which result from the consolidation by purchase of all or nearly all the plants engaged in a given industry in the country, so that they start business without any effective actual competition within the United States. In regard to this class this claim is made by the champions of the new economic departure; that they are constantly exposed to that potential competition which consists in the freedom of other capital and skill to unite and start competing plants and businesses; that there is always an abundance of this capital and expert ability in the community outside of any trust, watching for the inducement and opportunity to engage in the industry represented by the trust; that this potential and ever-impending competition from the outside is just as effective and complete a safeguard for the public against unreasonable prices and other abuses as would be the presence of actual competitors in the field; that by this unsleeping menace of renewed rivalry the trust is kept on its good behavior and compelled to hold its prices and profits at a low plane so as not to furnish a temptation for this potential competition to transform itself into actual and active competition; and finally that any trust which fails to observe this basic law of its being will sooner or later find itself to be merely one of sev-

eral competing corporations and will thereby cease to be a trust at all. In other words, when all are legally free to compete, the competitive principle acts permanently and effectively through potential competition, even in the absence of actual competition. Monopoly and potential competition cannot characterize the same industry at the same time. Thus the trust system practically does away with the gravest evils of competition without suspending or much impairing the efficiency of that competitive principle which is undoubtedly necessary as a safeguard to the public. The trust has not abolished competition; it has raised it to a higher level, carried it to its logical result, and its advocates now simply insist that the legitimate fruits of past competitive strife shall not be disowned—that the successful competitor shall be permitted to enjoy the reward of his legitimate competitive victory.

Overcapitalization.—The answer to the complaint of alleged overcapitalization of trusts is brief and threefold: (1) Even if one business is capitalized at $10,000,000 in "shares of $100 each," and another business of the same intrinsic value at $1,000,000 in similar shares, this simply means that for reasons satisfactory to themselves the owners of the business in the former case choose to divide the evidence of ownership into 100,000 parts, while in the other case the owners prefer to have only 10,000 parts. An apple is the same apple, whether divided into quarters or into sixteenths. The description of the shares as being "of $100 each" obviously has no effect upon the real value of either property or upon the proportionate ownership enjoyed or dividends to be received by any shareholder. The holding of a share of stock in the former case simply means that the holder owns one one hundred thousandth part of the corporation, and in the latter case one-ten thousandth part. The real value is in the company's actual property and profit-earning capacity. At the outset in the open market each share

of the stock of the ten-million company should evidently command one-tenth of the price of a share of the one-million company. If in actual business the two companies retain their equality of actual values and net earnings the crucible of the stock market will promptly settle the matter of relative stock values. If the shares of the ten-million company sell at 20, that is, $20 each, the shares of the one-million company will simultaneously sell at 200, or $200 each, quite regardless of the legend on the stock certificates to the effect that in each case each share has a "par value" of $100. These elementary facts are fully understood by all persons who are sufficiently intelligent to buy or sell stocks at all. The public is not deceived unless it chooses to be. Besides, the fact is that the average and experienced investor does not care greatly what is the amount of actual assets possessed by a corporation. He looks almost solely to the record and prospect for net earnings, the ability of the company to pay interest and dividends. He knows perfectly well that the plants and other assets of nine-tenths of manufacturing concerns would not in case of suspension and liquidation sell for one-tenth part of the current valuation of the going business. Earning power and good will are the elements of chief value in any such investment. A well-known newspaper is capitalized at $100,000, that is, 1,000 shares of "$100 each," but the shares sell, when any holder will sell at all, at more than $1,000 each, making the market value of the property more than one million dollars. Yet all the tangible assets of the company could be duplicated for less than $100,000. (2) If such over-capitalization exists in some cases and if in those cases the managers of the trusts attempt to earn sufficient profits to pay dividends on much fictitious capital, they will thereby invite competition from outsiders who are content with a fair return on actual cash investment and who, therefore, having far less fixed

charges to provide for, can undersell the trust in the market.

The Legal Objection.—This is not the place to discuss the legality of the trust, but the claim in this respect made by the friends of the new system may be briefly stated: (1) Where one corporation simply buys and pays for the manufacturing plants and businesses constituting a given industry in the United States and thereafter conducts its affairs in a lawful manner it is difficult to see how it can be successfully charged with creating or promoting a combination in restraint of trade. A corporation, being a legal unit, cannot combine or conspire with itself. (2) It is difficult to see how such purchase and resultant unified ownership can be judicially declared invalid without nullifying that freedom of contract which is impliedly guaranteed to every citizen by the federal constitution. This position is held to be impregnable in spite of some decisions by state tribunals, like that of the Illinois Supreme Court in the Glucose Case (1899). In due time when a test case has reached the federal Supreme Court it is expected that a decision will be handed down which will dissipate all doubt and end all discussion concerning the legal basis of the modern trust and the legal safety of investments therein. Even courts are bound to recognize accomplished revolutions. No tribunal, however exalted, can undo history and cause things to be as though they had not been. Our industries are already merged in the trust form or system, and they can no more be put back into the former competitive system than can the states of our Union be forced back into the position of colonies of England.

Finally, the trust is here. It is not a hostile invasion from without, but has been evolved from our own conditions by our own people. The universality of the

movement proves it to be natural and probably inevitable. If, in fact, it is an agency of great potency and great possibilities for good, when rightly utilized, shall it be so utilized or shall the new system be wrecked in common with the general prosperity, by a tempest of popular passion born of prejudice and misinformation?

A FURTHER FAVORABLE VIEW.

By Dr. Albert Shaw, Editor of the Review of Reviews.

THE COMBINATION OF CAPITAL.

If the organization of labor, even to the extent of the complete and monopolistic control of a great many important trades, is defensible and is a part of the natural and unavoidable movement of economic society in our age, it may be none the less true that the combination of capital engaged in a given line of industry is also in the main trend of our economic development, and therefore not to be prevented either by denunciation or by enactments. Up to a certain point the old-fashioned competitive system was not wasteful, but, on the contrary, afforded a useful regulation of production and of price. The whole tendency, however, of business progress—especially in a country like ours where vastness of natural resources and the rapid growth of population promote the growth of small businesses into enterprises conducted on a large scale—seemed to render the competitive system inadequate and wasteful.

RAILROAD AMALGAMATION.

In the case of particular enterprises protected by the patent laws, for instance, the economies of production on a large scale, and also of distribution freed from the special expenses that competition entails, were very readily apparent. In railroad management competition beyond a certain point proved to be costly for the patrons of the roads as well as disastrous for the owners. Consolidation came to be the order of the day, with the result of the evolution of a few large systems. Under the operation of these methods freight rates became lower and lower, so that the general public, far from being the victims

of transportation monopoly, have been its most obvious beneficiaries. This remark, of course, is to be taken with many modifications when applied in a specific way. Individual patrons of railroads have suffered wrong through favoritism shown toward their business rivals. Particular communities, also, have suffered through an arrangement of rates which favored the upbuilding of competing centers. The railroad systems of the country have by no means been perfectly administered in this new era of consolidation. Nevertheless there are few people who would not be ready to admit that railroad service is much cheaper and better now than it ever was before in the United States, and that it is cheaper and better here than in other countries.

ADVANTAGES OF UNITED MANAGEMENT.

It would seem good for everybody to have railroad transportation removed almost or quite wholly from the sphere of competitive business. The public is not benefited in the long run by rate wars between great trunk lines. Joint traffic agreements of a pooling nature may indeed be contrary to both the letter and the spirit of the Interstate Commerce Act; but the actual maintenance of non-competitive rates and a certain amount of co-operation in the distribution of business, is not only better for the holders of railroad shares, but it is also better for the shippers of goods and the traveling public than rate-cutting, secret rebates, and the administration of railroad systems in a spirit of warfare against other systems. The fact is, of course, that the old-fashioned competitive system, carried to a logical extreme, is closely analogous to warfare; and the whole tendency of our civilization is away from Ishmaelitish methods, and is moving nobly and wholesomely in the direction of co-operative and peaceful methods. The worst about our railroad system in times past was not the danger of its drifting into monopoly, but the unnecessary and speculative construction of competing lines, the kindred evil of overcapitalization, and the mischievous issues of securities that represented neither actual investment nor developed value. These methods were bad, of course, for the country at large; but probably the worst sufferers from them were not the communities through which the railroads passed, but the people who were deluded into buying the fictitious stocks and unsafe bonds.

PUBLIC WELFARE NOT MENACED.

For many years the railroad systems of the country have been going through the stage of financial reorganization as a penalty for the reckless and improper methods of the 60s and 70s.

The clear tendency of the times is to knit together yet more closely the whole texture of the country's railroad system. It is not at all impossible—so swift is the movement nowadays of industrial and financial combination—that all the railroad systems of the country might, in the not very distant future, be amalgamated into one great corporate whole. Nor is it to be taken for granted without careful thought and study that such a consummation would be deplorable. The legislative power to regulate railroad rates has become established in practice and is firmly upheld by the decisions of the courts; and the state also possesses the power of taxation. It is not easy to see, therefore, how the community can be in danger of losing its liberties through the further reduction of the railroad network of the country to a complete and unified system under one harmonious control. Nor would it seem to matter very much whether this issue came about through the legalization of pooling contracts or through the actual consolidation of railroad properties. This will seem a hard saying to many readers holding the old anti-monopoly views.

PUBLIC OWNERSHIP A SUBSEQUENT ISSUE.

It would be so much the easier for the Interstate Commerce Commission to secure uniform, accurate, and intelligible railroad accounting; and with perfect publicity the rate-making and tax-levying authority of the state and nation could exercise all needful control. Under such conditions, if the time should ever come when public ownership and direct operation of the railroads should be deemed desirable, the transfer could be brought about in a very simple way on some such plan as the exchange of government bonds for railroad securities at an agreed market value. The thing to be desired is the elimination from the railroad business of all speculative elements, so that after expenses of operation and maintenance are paid, and the managers and employes receive fair salaries and wages, there should remain just enough profits to pay interest and dividends upon an honest capitalization. This process seems to be working out through natural business laws. When it is pretty well completed it will be soon enough, in the United States, to consider whether or not the state ownership of railroads is desirable; and when that time comes it may perhaps make no very great difference whether the government of the country manages the railroads directly or whether it leaves them to be managed by a private monopoly subject to public control, regulation, and taxation.

TRANSITIONAL DISTURBANCES.

All great transitions in the business world are fraught with many incidental grievances and with much temporary incon-

venience. Thus most thoughtful men would hold it to be utterly fallacious to take the ground that it can be harmful to the community to introduce labor-saving machinery. On the contrary, it is agreed by most sound thinkers that the invention and use of appliances for saving labor must inevitably add to the general prosperity, and ought, therefore, to be encouraged in every possible direction. Nevertheless, at the moment when the labor-saving device is introduced in any given trade, there results no little hardship to many individuals. It is similarly true in the business world that the growth of production on a large scale and a rapid extension of the sphere of combination has crowded many small capitalists, manufacturers and traders to the wall and caused no little loss and confusion. This, however, involves no new principle. Competition has never at any stage been a merciful or considerate system of business organization; and it is by the methods of competition that the modern combination crushes out those who do not co-operate with it.

The new combination popularly called a "trust" is ruthless in its opposition to surviving or incipient competitors, but its methods in the main are not very different from those that a powerful business man fifty years ago would have used to break down his weaker rivals. These methods are not admirable, but it is well to remember that they belong not to the new system of co-operative capital, but to the old competitive system that the new methods are proposing to supersede.

THE RIGHTS OF MONOPOLY.

The method that came to be substituted [for the trust proper] was that of selling the properties outright to a new corporation. Property rights are secure under our national and state constitutions, and one of the most vital of property rights is the right to sell what one possesses. If a corporation may be formed for the purpose of one sugar refinery, it will in practice be difficult, if not impossible, to prevent its purchasing or building other sugar refineries; and there would seem no constitutional method by which its progress might not result in a monopoly. Such monopolies might, of course, pursue measures which would be harmful to the community and against which laws could properly be made. The devices of public regulation and taxation could always be brought to bear; but against the mere fact of monopoly per se there would seem to be no successful form of legal opposition. The government Patent Office every day grants control over certain inventions with the avowed object of promoting for a term of years strict monopoly. If, in some field of industry not dependent upon the protection of the patent laws, a monopoly should arise by reason of the fact that a

single individual or firm or corporation had come into control of the entire production of a given article, it would not follow necessarily that there was any greater impropriety in this particular monopoly than in those especially fostered by the government under its patent laws.

FREEDOM WITH REGULATION.

In a free country there must be freedom to combine and to co-operate just as there must be freedom to compete. On the other hand, the regulation and control of monopoly is permissible and necessary, just as the regulation of competition at certain points has been found desirable. Thus in the field of competition the laws now protect the good employer from the unfair competition of bad employers by regulating the character of factories, the time conditions under which women and children are employed, and in various other ways. The tendency now shown in a number of our state legislatures to enact laws striking directly at the formation of monopolies is readily explained, but does not indicate very mature consideration. A, who is a grocer in the town of B, would naturally be glad to be the only grocer in the town; and if he could form a partnership with C and D, his principal competitors, and the new firm could then buy out or crowd out their smaller competitors, there would emerge a monopoly. The methods used in obtaining that monopoly might not have been very kindly or polite, but they might, nevertheless, have been strictly within the pale of the law; and it is conceivable that the monopoly might be maintained indefinitely through the economical and careful conduct of the business and through the policy of sharing with customers the benefits derived from doing business on a large scale.

MAGNITUDE OF THE MONOPOLY MOVEMENT.

This illustration of the grocery store applies well enough to most of the monopolies that pass nowadays under the title of "trusts." It does not follow, however, because the principle of amalgamation is the simple one of bringing rival properties under a common ownership, that the movement is any the less stupendous in its volume or revolutionary in its consequences. It is entitled to all the attention that is being drawn to it, and to a great deal more. It would be strange, indeed, if a movement that is changing the whole face of the business world should not be reflected in any manner in political and legislative discussion. At the present stage the public needs information; and the things to encourage are study and inquiry, rather than the attitude of furious hostility. The laws that have been enacted with the intention of checking the aggregation of capital

have certainly had no decisive effect of that sort. The opposition to the old form of trust has simply stimulated the formation of those more complete aggregations that involve the bona fide transfer of the property to a new company that thus absorbs the old corporations.

COHESIVE POWER OF THE "TRUSTS."

The Cordage Trust was one of the earlier combinations which went to pieces a time or two, and which gave the public the impression that the combination movement in itself was contrary to natural economic tendencies and might therefore be thwarted. But if the Rope Trust indeed was held together by ropes of sand, it was a marked exception. The industrial monopolies, for the most part, show signs of great stability. It is likely enough, of course, that where they have been recklessly and foolishly overcapitalized—with the idea that monopoly means the opportunity to advance prices and oppress the public—they will come to financial grief and be compelled to reorganize. But reorganization in such cases means nothing very different from railroad reorganization. Where a railroad has gone into the hands of a receiver, the trains continue to run and the shippers and passengers see no difference. The reorganization is a matter of finance. A great number of so-called trusts have been floated upon absurd overissues of preferred and common stock, and the "water" will sooner or later have to be squeezed out. It does not follow, however, that the combination will dissolve into its original elements, and that its parts will go back to the old system of competing with one another as independent concerns. The probability, on the contrary, is that the advantages of monopoly production and distribution will be firmly retained. It is to be regretted that the laws in this country are not as rigid as those of some foreign countries as respects capitalization of joint stock enterprises. But the trick of overcapitalization, although intended to aid in fleecing the public by making it pay prices that would earn dividends on fictitious stock, is likely to react in the end upon the shareholders.

TRUSTS AND GREAT FORTUNES.

The period through which we are passing, in which the competitive economics of large production drives capital inevitably to seek the security of combination, abounds in those uncertain elements which give opportunity for the formation of immense fortunes, due rather to abnormal conditions than to relative superiority in the management of business enterprises. This phenomenon of the rapid growth of colossal fortunes will

doubtless continue until the transition is fairly complete and the great industries settle down to steady-going methods under strict public regulation. The tendency will then be for labor, on the one hand, and the state, through taxation, on the other, to absorb everything except a reasonable profit upon the capital employed in the monopolized enterprises. The speculative element in the so-called "industrials" will have a tendency to disappear as in the case of the railroad systems; and it may be expected that there will come about a gradual diffusion of ownership in these great enterprises through the investment of the savings of the people in their stocks and securities, quite as in France, where the real owners of most great undertakings are working people and small investors. It is altogether too soon to say that the tendency to the accumulation of great fortunes will not be squarely offset by other and even more potent tendencies. The next census, in so far as it may carry out a special inquiry into the wealth of the country, is not likely to find that the past decade has put an increased proportion of the national wealth in the hands of the millionaires. It has certainly produced the phenomenon of a larger number of multi-millionaires. But the advance in general prosperity of more than 70,000,000 people easily counterbalances the abnormal growth of individual fortunes.

Despair in presence of a perplexing economic situation is like cowardice in the face of the enemy.

CHAPTER II.

THE ARGUMENT AGAINST THE TRUST.

An Explanatory Word—No War on Corporations or Capital—Large-scale Production Approved—Monopoly Alone Attacked—Competition Not a Failure—Causes of the Trust System—Method of Trust-building—The Men Behind the Trust—Monopoly-hunger, Not Evolution—The Trust an Economic Impertinence—Concerning Foreign Trusts—Some Trust Benefits Fictitious, Others Overstated—Our Foreign Trade—Effect of Trusts on Towns, Farms and Labor—The Door of Opportunity Shut—Eastward Movement of Industries—Competition, Actual, Potential and Spurious—The Giant and His Club—The Trust and Socialism—As to Trust Prices.

At the outset a simple definition is necessary, although it ought not to be. Opposition to the trust system is solely a battle against monopoly. Among thinking people there is no objection to the existence of corporations, or even of large corporations, engaged in legitimate business and using legitimate methods. There is no war on capital as such. There is no disposition to resist or complain of the evidently natural modern tendency to carry on productive industries with greater capital and larger plants until the maximum of economic efficiency within competitive lines has been reached. That which alone has called out the swift, indignant and well-nigh unanimous protest of our people is the proposition to substitute systematic private monopoly for open competition in many or all of the great industries of the land. It is monopoly entrenched within particular corporate organizations and backed with aggregated capital that

the public intends to reach and deal with. Corporations themselves, as a system or institution of all commercial communities, are safe from assault.

The studied and persistent attempt on the part of most defenders of the trust to ignore these facts, to sidetrack the great discussion and dwarf the present storm into a teapot-tempest of ignorant passion against all wealth and all corporations, an attempt which is illustrated in a majority of the pro-trust arguments, is unworthy and futile. It cannot long confuse even the simple, and it cannot at all divert the course of the present wide debate. To this end we shall in the present argument usually characterize the object of remark as the Monopoly-trust, for there is no other offender in sight. Further, the monopoly-trusts under discussion are not to be confounded with natural monopolies like railroads whose charges and conduct are perfectly controllable by government, nor with temporary special franchises like patents and copyrights, which are granted in the public interest, to encourage invention and literature, and which shut out society from nothing

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This claim that antagonism to the monopoly-trust is really a war on all corporations with their necessary aggregations of capital has no other warrant than this: When the courts found monopoly entrenched in the form of organization properly called a trust (like the original organization of the Standard Oil and the Sugar Trust) and compelled a hurried evacuation of the premises, monopoly took refuge first in practical corporation-partnership and next in single corporate ownership—the guise in which virtually all trusts now appear, and in which they have considered themselves unassailable. It is not the corporation that the public antagonizes; it is the monopoly housed in corporate form. It may become necessary to demolish certain specific corporations in order to reach their occupants, but this is very far from constituting war on corporations as such. Let this illustrate:

An invading army, having been worsted in its first campaign, adopted the expedient of stationing its outposts in certain of the schoolhouses of the vicinity. Thereupon the troops of the invaded country trained their artillery on these outposts, with the natural result. Then the invaders shouted, "Ah, you are making war on the Schoolhouse, and the culture it represents," and at once proceeded to occupy certain stone churches near by. The patriot army was compelled to shell these also in order to reach the enemy, whereupon the invaders held up both hands and with marked sincerity appealed to the civilized world to witness that these barbarous people were really making war on their own schoolhouses and churches, on education and religion.

He who runs may read.

which it previously possessed. Comparisons of the one with the others are fallacious and misleading. The term monopoly is herein employed in its usual economic and commercial sense of practical or virtual control of an industry or business. There are no absolute or perfect monopolies, since even our postal service is in competition with the express companies and other common carriers. It is universally admitted, except by special pleaders, that any trust which owns or controls from 75 to 90 per cent of an industry has a virtual monopoly of that industry and can do practically what it will.* * * Throughout no reflection is intended upon the personality of those who are identified with the trust movement. At worst, most of them have been misled by a colossal opportunity for great and sudden gain. A false principle and system only are under discussion. Industrial corporations, however large or successful, are not properly classed as trusts if they are not fairly chargeable with the intent or the fact of virtually monopolizing an industry.

For evident reasons the argument against the trust cannot be and need not be so elaborate as the argument in its favor. Instances occur in every field of life where a score of apparently conclusive reasons can be given in support of a proposed change, all of which are set aside by a single fundamental and overwhelming reason on the other side. A home-seeker may admit many most attractive features in a residence which he is urged to buy, but may offset them all with the brief answer, "It is unsanitary." A business man may be convinced of many profit-producing elements in a policy which he is asked to adopt, yet reject them all with, "It is not honest." On a certain occasion when the economic and other glories of all the kingdoms of the world were portrayed and tendered as an inducement, the negative argument required but four memorable words. One sufficient ethical

reason tips the scale against a cart-load of commercial advantages.

Up to a well-defined point the strictly economic argument in behalf of the trust is strong and clear. Several elements in that argument are undoubtedly sound, and, standing by themselves, are entitled to all the consideration claimed for them. All this may safely be conceded, for, after all concessions are made, its opponents contend that the trust system should never have been inaugurated and should now be discontinued, because in its essence and net results it is both economically and ethically hostile to human welfare.

Obviously the burden of proving its case lies with the trust. Its arrival and existence among us constitute a sharp challenge to the established economic order—a sweeping indictment of about all that society has been accustomed to regard as settled and orthodox in the business arrangements and relations of civilized men. It rests with the advocates of this particular innovation and proposed revolution to justify their new social and industrial scheme. They have stated their case in a manner that has apparently convinced themselves and a very intelligent and influential section of the public, and has mystified and bewildered a multitude besides. Hitherto they have been greatly aided in this by the unfortunate fact that most of the utterances on the other side have been largely emotional and denunciatory instead of being reasonable and forcible—evolving far more caloric than illumination. One zealous antagonist of the trust, on being remonstrated with for his constant use of invective in place of argument, unconsciously justified his critic by replying that when a citizen wakes at night to find that a burglar has broken into his home and taken him by the throat, the circumstances do not favor a placid and strictly logical presentation of reasons why the invader should have pursued a different course. So, the anti-trust protest has thus far been for the most part

an outcry in the dark, of mingled indignation and alarm.

What then is the argument against the trust?

I. COMPETITION NOT A FAILURE.

Under the competitive system the human race has achieved its development, won all its victories, accomplished all its progress. That it has done this largely by reason of, and not in spite of, that system, mankind still believes. Competition, the struggle for existence and excellence, in practically every domain of human affairs has been the schoolmaster of the race. Under its salutary severity, and often by virtue of the very friction and pain against which men cry out, the orderly evolution has advanced and its flower and fruit have been reached in that crowning result which we call modern Civilization and human Character.

Doubtless the competitive struggle has been in many places and times needlessly severe. Human folly has often introduced competition where it did not belong and carried it to destructive extremes without the slightest warrant of necessity. So the wholesome rule of gravitation has often been misapplied and untoward results have been encountered; yet few, if any among us have been disposed to devise and apply the opposite principle as a new regulator of the physical universe! During the last two decades of the closing century more has been learned concerning the proper limits, province and adjustments of the law of competition than during all previous time. In the light of this new knowledge the world has been, with sufficient rapidity, rewriting its science of political economy, chiefly along the line of such a readjustment of competitive conditions and methods as should make them consonant with Christian common sense and the scientific spirit, without sacrificing the stimulus, the educational force, the open door and the public protection which the competitive principle alone supplies. All thinking men have increasingly realized that the civil-

ized world has entered upon a distinctly new phase of social and economic development, especially involving great aggregations of capital, labor and managerial skill. Association, co-operation and magnitude in industrial and commercial methods gradually became the rule along many lines. To this central fact of the new period all classes were adjusting themselves, with little of protest or friction. That the progressive change was an orderly advance in response to a natural law, few doubted who thought clearly. The great benefits of the new method viewed largely compensated for the inconvenience which it brought to some. But—this fact stands out like a head-land, the new tendency, while it accomplished and promised great amelioration of the harshness of the self-regarding struggle for existence and well-being, did not attack or disturb the central principle of effective competition—which the people believed and still believe to be their enduring citadel of economic safety.

Among the ultimate results of the progressive change, systematic monopoly in private hands did not appear on the horizon of probabilities. Much less did it seem among the possibilities that systematic private monopoly of the greatest industries of the people could or would, before the beginning of the new century, become an accomplished fact, defended and justified by many citizens as the fruit of natural and wholesome business evolution.

Now, into this hopeful economic situation comes the trust-system, which undertakes, not to regulate and methodize competition while leaving unimpaired its conservative vigor, but to suspend effective competition altogether in those industries which it controls while leaving the rest of the community immersed in the old competitive conflict, intensified by the wholesale desertion and unfair exemption of the owners of the monopoly trusts.

More specific and concrete reasons will appear

further on why the monopoly-trust, instead of being a cosmic and necessary movement is, in fact, an economic impertinence.

II. CAUSES AND GENESIS OF THE TRUST.

The causes and contributory conditions which have brought in the trust system are not so complex nor so occult as many assume. When due allowance has been made for the several causative agencies herein named it is believed that not much will remain unaccounted for.

(a) As already conceded the undoubted economic tendency of recent years has been toward capitalistic association and co-operation on a large scale in commercial and industrial enterprise—within the lines of effective competition. There is no occasion for quarreling with those who claim that this development is as natural and irresistible as was that of the introduction of improved machinery and the factory system. An intelligent and fair-minded public did not fail to recognize that within proper limits this system has brought much of benefit to the people, and that when the policy of large manufacturing plants and correspondingly large equipments of capital is adopted by one community, it must be adopted by others or the latter will lose in the competitive race. Accordingly, we became familiar with the gradual elimination of many small, inefficient and ill-placed industrial plants and the concentration of production in a smaller number of large, but still competing concerns—many of which thus reached in magnitude and capital the maximum of efficiency in quality and cheapness of production. Witnessing this tendency to enlargement and the public acquiescence it enjoyed, a few "captains of industry" assisted by sharp-scented financiers behind them received a new revelation. Impatient with that wholesome business rivalry through which they had themselves reached success, and blindly ignoring the fact that between modified but effective competition and indus-

trial monopoly there is a gulf as deep and wide as human welfare, they evolved the proposition that this accepted method of doing almost everything on a large scale could easily be carried further, to what they chose to call its "logical conclusion," so that an entire industry should be controlled, if not owned, by one combination or interest. Consciously or unconsciously these impersonal gentlemen thus set as the prize to be sought, a series of industrial monopolies in private hands wholly unrestrained by law.

THE GERM OF THE TRUST IDEA.

Here, in an idea only half worked out, was the egg of the modern trust system. The hatching process was equally natural. The dazzling advantages of such a revolution (to those behind the revolution) were apparent enough. A willingness to gather great wealth quickly was quite sufficient as a motive. There seemed to be no occasion to bother about scruples and ethical conundrums for were they not simply assisting a natural economic evolution—serving as well-paid midwives at a birth which was inevitable without them? The only remaining question was, "Can it be done?"

(b) A partial affirmative answer seemed to be at hand in the overwhelming and sustained success of the Standard Oil Trust. True, that concern had started long ago under special conditions, when the petroleum industry was largely a mining venture, had brought order and success out of chaos and failure, and had not formally taken control of a whole industry. It was still doing business against some competition at home and against powerful and alert rivalry abroad. But it was known to control prices here, both of the crude and refined products, and of its enormous profits there was no occasion to doubt. With aggregate dividends of $91,415,000 on its stock in the three years ending with 1898, with its $100 shares selling at 490, making the value of the busi-

ness over 476 million dollars, it is not surprising that the example of the semi-monopoly of the Standard was irresistibly seductive to persons who were under temptation to go and do likewise in other fields.

(c) Omitting minor ventures, a group of gentlemen formed a plan for consolidating the sugar refining industry of America in a single combination. After a few false steps the colossal undertaking became a substantial success. The Sugar Trust began in 1887-9, by absorbing twenty independent refineries, representing over 90 per cent of refining capacity in the United States, and subsequently increased this to 98 per cent. Attacked in the courts of New York as an illegal combination in restraint of trade, it was dissolved as a trust proper, and reappeared in 1891, as a single corporation of New Jersey, capitalized at $73,936,000, one-half preferred stock and one-half common. For six years ending with 1898, the company (with only a nominal investment of capital outside of that already supplied by its own net earnings) paid 7 per cent. dividends on its outstanding preferred shares, and an average of 12 per cent. on its outstanding common.

This spectacular success in sugar under the leadership of the Havemeyers, added to the long record of the Standard Oil, almost completed the affirmative answer to the question, "Can it be done?" The fabulous profits earned by the re-organized Sugar Trust and paid as dividends on stock which was mainly water, added fuel to the zeal of the gentlemen who had their eyes on other industries, and the query began to rise in the minds of many sagacious and pushing men, some with and some without financial connections, Why cannot we duplicate the Havemeyer deal on a smaller scale? And in the sunshine of events many of these men east and west blossomed into professional promoters.

METHOD OF TRUST BUILDING.

(d) The tide of great business prosperity which set in after the elections of 1896 furnished a condition without which there would now be no history of the trust movement to write. The conspicuous feature of the period, not yet wholly passed, was the marvelous revival and overflow of financial confidence, following a long season of commercial dry-rot and pessimism. This resulted in the unlocking of a vast amount of investment capital, whose owners seemed anxious only lest somebody else should get before them in obtaining whatever securities were offered through respectable banking channels. Probably never in the history of any country was an investing public so indiscriminatingly omnivorous. This fact was instantly recognized by the promoting class as assuring success for a long list of "industrial" consolidations, provided two remaining elements could be counted on: First, would leading bankers and trust company offi-

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The American Writing Paper Company consolidated into a trust twenty-seven plants, with options on several other smaller ones. Of the twenty-seven concerns twenty-four had an aggregate capacity of 250 tons daily. A leading banking institution of New York, which had been asked to finance the combination, privately learned that the price actually to be paid for the sixteen mills around Holyoke and Springfield, Mass., having an aggregate daily capacity of 227 tons, was $6,684,000. The capacity of the other eight New England mills was only 32 tons per day, leaving the three mills in Wisconsin with capacity not stated. All the twenty-seven mills cost the promoters not much over $7,000,000, and the former owners considered that they were getting fancy prices for their property, or they would not have sold. Their reasonable cash value, including good-will, may possibly have reached $5,000,000. The trust organization was floated with a capitalization of $42,000,000, or more than six times the maximum cost at inflated values. The capital of the trust was made up of bonds, $17,000,000; preferred stock, $12,500,000; common stock, $12,500,000. From the proceeds of bond sales, $2,500,000 was placed in the treasury of the corporation as working capital. In their published prospectus (September, 1899) the bankers of the new trust, Lee, Higginson & Co., of Boston, after stating that the combination of twenty-seven mills represented 84 per cent. of the total production in New England and over 76 per cent. of the entire output of fine writing paper in the United States, said: "The combination of these companies will naturally result in extensive advantages, improvements and economies, and our best advices from most competent men indicate that the net earnings of the new company will not be less than $2,200,000 (and this without increased output), which is equivalent to interest and sinking fund of the bonds, seven per cent. dividend on the preferred, and three to four per cent. on the common stock."

cials consent to finance the proposed consolidations, by first underwriting the several propositions and then marketing the resulting stocks and bonds with the public? Second, would the manufacturers, the real owners of existing plants, consent to give up ownership and management of their businesses and merge them in a trust? Inquiry among bankers promptly developed the fact that on a satisfactory basis they were ready for this line of business, and that in fact many of them were already interested. Then, with as many different methods of approach and as many varying details of result as there are industries to consolidate, the promoters, each having first made a study of his selected line of manufacture, proceeds to lay before manufacturers the glories of the trust system, and ascertain their temper towards it—in most cases with this general course and outcome:

(e) Some entire industries wholly refuse to entertain the project, and in those lines no trusts are formed. The promoter's efforts fail. In the others the out-of-date, unprofitable and failing concerns—the lame ducks of each industry, welcome the suggestion of consolidation and are not over-particular as to terms. The modern, successful and profit-earning companies are, for the most part, either averse to the change or coolly curious to know at the outset how far the movement has already progressed and what sort of an offer is likely to be made to them. With the shining example of the Sugar Trust as a text and warrant, the promoters are able to make up a prospectus that would interest any manufacturer who is mortal. Always, everywhere and foremost is urged the overshadowing financial value of the monopoly of production and sale, which is to be enjoyed by the trust resulting from the proposed consolidation. Without this feature of monopoly there would have been no visitation by the promoter, no waste of time by the manufacturers, and no talk about trusts. In the absence of this noble Dane there would have been no economic play of Ham-

let. All negotiations are conditioned upon the ability of the promoters to get the assent of at least 85 to 90 per cent, in producing capacity, of manufacturers—the well-grounded theory being that, controlling so large a proportion of an industry, the trust, by one of several well-known methods, can soon make it for the interest of the minority outsiders to come in or retire from business—unless it should seem diplomatic to leave in the field a few minor independent concerns to continue business on sufferance of the trust, keep up a semblance of competition and thus hoodwink the public into believing there was no monopoly.

Such liberal terms as to purchase of their plants and sometimes as to their own place in the management of the future trust, are usually made with certain leading manufacturers as will induce them to give the weight of their names to the project. Others, influenced by these prominent examples, indicate their willingness to come in provided terms are right. To those who are still reluctant pressure is applied by the significant suggestion that they will be in a particularly bad fix if the trust is formed and they are left on the outside. Finally, the problem is reduced to one of making terms of purchase or absorption satisfactory to each concern forming part of the industry.

PLANTS OVERVALUED, CAPITAL INFLATED.

And just here comes in the most phenomenal feature of this entire trust movement. Bearing in mind the fact that, with rare exceptions, every man will sell any business property he possesses if a sufficient sum is offered for it, the process of consolidating an industry into one ownership by purchasing all its factories, becomes a simple one provided the purchaser or purchaser's agent is not limited as to the price he shall pay. Practically this is the amazing situation in most cases when the average promoter approaches manufacturers with a view

to starting the organization of a trust. Doubtless in some instances fairly conservative valuations have been placed on the plants of an industry and the resulting trusts have been reasonably capitalized. These are believed to be a small minority of the whole. Usually even when plants are paid for wholly or mainly in cash the consideration is far in excess of the real money value, simply because the promoter is not buying for himself, or for any specific purchaser, is not limited as to price to be paid, and needs to have the prompt assent of the manufacturers in order to prevent a collapse of the plan through simple delay. As all these facts are known to the cool-headed manufacturer, he names his own terms, accepts his price, and steps out of the business, a capitalist—unless his salaried services have been engaged for the new management.

With the manufacturer who becomes the owner of trust stocks or bonds, with the bankers who finance these undertakings, and with the investing public which buys these securities with both eyes shut, the uppermost thought is that the perpetual monopoly, the freedom from competition, will enable the trust to pay satisfactory dividends on any capitalization it chooses to adopt.

EXPERT TESTIMONY.

In proof that this outline of the genesis of the average trust is a picture from life, and by way of showing how overcapitalization is brought about, note the following frank and voluntary testimony from one who probably knows more about the facts from an inside view than any other person. Mr. Jas. B. Dill is a leading corporation lawyer of New York City, and is also a member of the New Jersey Bar. He shared in framing the present New Jersey statute governing the chartering of corporations for that state, drew the charters for and supervised the organization of half a score of the largest of modern industrial corporations, and is a director in nearly

all of the former. When in Chicago, attending the recent conference on trusts and combinations, as a looker-on in the interests of the corporations represented by him, Mr. Dill gave out a prepared statement, in which, after explaining that there are honest trusts reasonably capitalized, and dishonest trusts overcapitalized, he used this language:

> The evils of these dishonest corporations arise in the methods followed by the promoters. Suppose, for instance, some promoter conceives the idea of consolidating the plants engaged in a certain line of manufacturing. He goes to the owners of the plants and gets options. He needs money, so he goes to some bank and lays the options before them, with a proposition to finance the combination. Say, for example, that the plants are worth $5,000,000. He would demand $500,000 for his options, and a half of the profits. If the bank agrees the promoter goes to the owners of the plants and tells them that he can pay them a quarter of their value in cash and the remainder in preferred stock, but as a special inducement he offers them a like amount of common stock. By this deal the capitalization is doubled, and becomes $10,000,000. But this would leave nothing for the bank which is financing the deal, so the bank must again double the capital in order to give a proper margin. But the stock of such a corporation will sell only from 40 to 60 cents on the dollar when placed on the market, so another $10,000,000 is added, and the capital stock becomes $30,000,000, while the actual value is $5,000,000. Then the promoter and the bank quietly sell their stock for what it will bring, and the corporation is left in the hands of the stockholders with immense fixed charges to pay on watered stock. Reduction in wages follows, which means a corresponding reduction in the quality of the article manufactured, prices are advanced as far as possible, and the corporation struggles on until failure and reorganization take place after immense losses to stockholders and employes.

Certainly not in five per cent of the trust organizations thus far completed has the movement to consolidate and monopolize an industry originated spontaneously with the solvent manufacturers representing such industry. With so few exceptions as only to prove the rule, an expert promoter or group of promoters, including one or more bankers, has in each instance conceived the idea, formed the plan, solicited manufacturers' options, plied the arts of diplomacy with the owners of factories, framed prospectuses and negotiated with moneyed institutions for financing the "deal" and for selling the resulting stocks and bonds to the investing public.

THE MEN BEHIND THE TRUST.

If this freehand sketch of the origin of the monopoly trust system, as confirmed by the highest expert testimony, is substantially accurate, and it will be recognized as such by those who are informed on the subject, then these conclusions are justified:

1. The trust system of to-day did not originate with the men who alone could have a legitimate interest in launching such a movement because it might improve and cheapen production—the owners of manufactories.

2. The four classes of citizens who have contributed to the surprising result, the first two actively and the last two passively, are shown to be: (1) The promoters, whose sole motive has been the large commission or profits for transient service in bringing about the several consolidations. Not one has or wishes to have any interest in the permanent economic questions affecting productive industries. (2) Certain eastern bankers, whose sole motive has been the still larger profits and commissions resulting from capitalizing the trusts and selling trust securities to investors who largely rely on their judgment and recommendation. Not one of these bankers but would smile in private at the suggestion that his activity, agency and profits as a trust promoter formed part of an "orderly economic evolution." (3) The manufacturers, whose motives have varied according to their condition. Those in financial distress have welcomed the trust as an escape from bankruptcy. Those who were offered twice the value of their plants needed no other motive. Those who wished to remain in the business of a lifetime, but apprehended the club of the trust if they held out, yielded to their fears and sought consolation in cash, bonds, stocks and retirement. Those who accepted influential positions in the management of trust affairs, in addition to other satisfactory terms, required no other inducement. Not one manufacturer, so far as heard from, considered himself as yielding to an eco-

nomic evolution which relentlessly urged him and his fellows on to "still larger aggregations of capital, labor and effort." (4) Finally the investors, who simply knew that they wanted in large amounts securities which leading bankers and brokers represented as being both safe and profitable; who made no investigation for themselves as to the real assets owned by, or the absurd overcapitalization of, the companies whose bonds and stocks they eagerly absorbed, and who had the vague notion that the monopoly advantage of the trusts would offset any degree of inflation.*

MONOPOLY-HUNGER, NOT EVOLUTION.

1. Back of these four classes of ordinary mortals whose simple motives are all on the surface, lies this fundamental fact: All men have known in all ages that in private monopoly, when permitted, there is great and quick wealth, but the understanding has hitherto been that the law prohibited this unfair advantage of the few over the many. Somewhat suddenly the belief has spread like contagion in America, based largely on the immunity of the Sugar Trust and one or two other pioneers in this field, that the American people will tolerate private monopoly of the production and sale of necessary commodities—or, rather, that they have no defense against it. A hint was sufficient. The only road to such monopoly lay through the unification of the several industries, and with the signal once given and the method made plain, the self-seeking rush followed, as to a new Klondike. With such unnatural and incredible inducement, "surpassing the dreams of avarice," on the one side, and human nature on the other, no different result was possible. In this sense the movement is natural.

2. In the light of these facts it becomes manifest

*A Broad Street broker, with more accuracy than elegance, has characterized the Men Behind the Trust in the order of activity as the Promoters, the Promoter-Bankers, the Quitters and the Suckers.

that the central and determining element in the trust movement, monopoly, is not in any sense nor to any extent whatever an economic evolution, an orderly development from preceding conditions under the stress of an imperious law which nobody can either understand or resist. On the contrary it is shown to be an artificially stimulated movement, solely prompted by ordinary, vulgar human motives and enabled to succeed for the time partly because of extraordinary investment conditions in the country, but mainly because of the previous neglect of the public to provide adequate legal safeguards against forms of private monopoly which, until recently, no one suspected would ever attempt to invade popular rights. It is the offspring of a smug and thrifty philosophy of self-seeking on a gigantic scale, masquerading as an inevitable and scientific industrial development. If gross intoxication is the scientific, necessary and logical conclusion of the tonic use of wine, then it may be scientific and inevitable to carry the process of competitive industrial development to the stage of systematic and universal monopoly—its exact opposite. The tendency toward large-scale production in the interest of maximum economy and efficiency is a natural evolution and right; the rush past that maximum to monopoly for monopoly's sake is strictly artificial and wrong. The one is sobriety; the other is economic debauch.

Perhaps the deadly parallel column may illustrate this point:

Fact.—Personal liberty, exercised within the lines of law and order, is beneficial to the individual and to society.	Fact.—Industrial liberty of concentration held within the lines of maximum efficiency and economy and of effective competition, is beneficial to the individual and to society.
Fallacy.—Therefore, personal liberty exercised without regard to law and order and carried to the stage of anarchy, which means the bondage of all to the forces of barbarism, is also beneficial to the individual and to society.	Fallacy.—Therefore, industrial liberty of concentration carried beyond the lines of maximum efficiency and economy and of effective competition to the stage of universal private monopoly, which means industrial bondage of the many to the few, is also beneficial to the individual and to society.

TRUSTS IN OTHER COUNTRIES.

It is urged that the universality of the trust movement proves its natural and inevitable character, and then the statement is made that England rivals America in number and magnitude of industrial trusts. This is a curious error. Neither in Great Britain nor on the continent of Europe is there a state of things corresponding to what we understand by the trust movement in the United States. In Great Britain the facts are these: There exists the same general tendency as here toward enlargement of plants and capital in the interest of greater economy and efficiency in production and this is often accomplished by means of consolidating two or more previously competing concerns. Both mercantile and manufacturing establishments, some of which were built up by partnerships running through generations, have in recent years been put in corporate form, reasonably capitalized, and their stocks and bonds under the name of "industrials" constitute a favorite investment of the British people. This class of securities now reaches an aggregate amount of more than 400 millions sterling. They are in nearly all cases the shares or obligations of large, independent establishments engaged in legitimate competitive pursuits and bearing no resemblance to American monopoly-trusts. In several trades there are various forms of association and agreement with a view to adjusting supply to demand and preventing what is known there, as here, as cut-throat competition. Of this class are the trades combinations originated by Mr. E. J. Smith, of Birmingham, fully explained in this volume, but Mr. Smith appears never to have seen a typical American trust in England and on information he denounces it as monopolistic and injurious. Aside from the Thread combination, which is about half American, there is scarcely an instance in Great Britain where a successful attempt has been made to absorb into a single ownership and thus monopolize an entire industry on the Amer-

ican plan. Special investigation confirms the indications of current English journalism and if further corroboration were needed it is furnished by the following pointed letter from one of the best informed gentlemen in Her Majesty's foreign service, the British Consul-General at New York:

HER BRITANNIC MAJESTY'S CONSULATE GENERAL.
New York, Oct. 17, 1899.

Sir:—With reference to your letter of the 14th inst., it does not appear to me that the industrial trust, absorbing the leading industries of the country, prevails to any considerable extent in Great Britain, at present. Complaints are made from time to time of combinations between railway companies and the owners of shipping which lead to a practical monopoly in a particular branch of transport, and in this way are said to favor the foreign producer, to the detriment of native production or industry. But so far as I am aware, there has not been in Great Britain the same tendency to establish organizations to obtain the ownership or control of all or nearly all the plants or factories of a given industry, for the purpose of establishing a practical monopoly.

Yours faithfully,
PERCY SANDERSON.

Mr. A. B. Nettleton, Chicago.

Substantially the same condition prevails in Germany, where the conversion of private partnerships into capitalized industrial corporations, often accompanied with the union of two or more, has recently reached a speculative stage; but the characteristic feature of the American movement, namely, the systematic monopolizing of an entire industry by one corporation is only noticeable by its absence or its rarity.

There are practically no trusts in Canada, yet the Dominion's export trade is advancing by leaps and bounds. That is a curious form of natural evolution which scrupulously respects political boundary lines—as if a Dakota cyclone should abruptly retire from business on reaching the Manitoban border. In reply to a specific inquiry the editor of the Toronto Globe, under date of October 23, 1899, sends this statement: "There are few if any Canadian trusts. In Toronto, there has been a local combine of the bicycle industry, but it is scarcely on the scale of a trust." [See appendix to this Argument.]

III. SOME TRUST BENEFITS FICTITIOUS, OTHERS OVERSTATED.

1. Cheapened Production.—Perhaps the leading argument, purely economic in character, in behalf of the trust system is that the cost of production is thereby largely reduced, with great resulting advantage to producer and consumer. This claim is weakened by a threefold fallacy: (1) There is a well-defined limit beyond which no advantage in cost of production results from increased size of plant. (2) The average trust is not massing production in one or more great, modern establishments, but is buying and then maintaining from five to forty existing and widely separated plants, representing all grades of efficiency and inefficiency; hence it can lay no claim to the best economic conditions and results in production. (3) Whatever advantage in the form of cheapened production results from greater capacity of plant is realized by individual establishments of large size, adequate capital and competent management, without any necessity whatever for invoking the trust or monopoly feature. On the first point hear Henry Carter Adams, professor of political economy in the University of Michigan, whose paper presented at the recent trust conference in Chicago is given in full in this volume:

> It is common to say that increase in the size of manufacturing plants permits the production of commodities at less cost than would otherwise be the case. There is undoubtedly some truth in this statement. The development of machinery has gone hand in hand with the growth of factories, and as a result the product is furnished at a cheapened rate. But there is a limit to the application of this rule. Every manufacturing industry, considered from the point of view of production, has at any particular time a size which may be regarded as its normal size of maximum efficiency. This normal of maximum efficiency is determined by the extent to which division of labor and the use of machinery can be applied. To increase such an industry by one-half would not result in a decrease of the cost of manufacture, for it would occasion a less effective application of the principle of division of labor.
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> While, therefore, it is true that the concentration of capital and labor under a single direction is followed by economy up to a certain point it is not true that combination and concentration beyond that point tend to reduce the cost of production. He who accepts this statement of the case must conclude that manufacturing combina-

tions, I say nothing of other forms, contribute nothing to the reduction of the cost of manufacture beyond what would be contributed should each of the industries continue its independent competitive existence. This is a curt answer to a profound question, but it is believed to rest upon sound analysis and to lead to the conclusion that the motive to a trust organization of manufacturing industries is not found in a desire to benefit the public by the reduction of cost.

This broad statement of a permanent economic principle is concurred in by most authorities and is confirmed by the actual experience of manufacturers. To repeat: The maximum of advantage resulting from great aggregations of workmen, machinery and capital in a manufacturing industry, so far as concerns cost of production, is reached in those individual establishments which have (1) sufficient size, (2) competent management, (3) adequate capital. To a plant of this character the trust system can bring no advantage whatever in the way of reducing cost of output. On the contrary, by merging such a concern under the trust system in a mob of scattered establishments of good, bad and indifferent character and management, the result is more likely to be the reverse of that claimed by trust advocates. As an illustration, take the Baldwin Locomotive Works of Philadelphia, whose engines go in numbers to China, Japan, Russia, and even to England. It would provoke a smile to suggest that their cost of production and hence their ability to capture foreign markets and "meet and vanquish" the competition of European locomotive-builders would be improved by entering a trust. The trusts cannot suddenly dismantle most of the plants they buy, and then concentrate production in a number of colossal and modern establishments in which the best conditions may be secured. Such a course would involve a sacrifice of assets and good-will that would be prohibitive. But without pursuing such a policy the trust is obliged to do the best it can with the plants it takes over, and it cannot get from such a situation anything like the maximum of efficiency and economy. Several scores of promising trusts

are likely to encounter this economic disillusionment before the new century is out of swaddling clothes.

2. REDUCED COST OF MARKETING PRODUCT.

The advantages claimed under this head are not groundless in relation to most industries, but they have been pretty uniformly overstated to investors and the general public. Two leading elements in the former cost of marketing manufactured commodities have been advertising and the employment of traveling men. Beyond doubt some saving can be made in these particulars, chiefly by avoiding the duplication of selling effort for the same class of goods in the same field. But to whatever extent the trust-organizers have counted on practically cancelling expenditure for these two items, on the ground that buyers will be obliged to come to the sole manufacturers, they are likely to be surprised. Those trusts that have tried this experiment have discovered that demand for commodities falls off with remarkable rapidity as soon as effort in pushing sales is materially reduced. To an extent which few appreciate, the buying public has become accustomed to being reminded of its needs before making purchases. The country merchant often has more inertia than enterprise, and with the periodical visits of his favorite drummer discontinued, his orders dwindle or are delayed until unseasonable. Except in staple and absolutely necessary commodities, demand is largely created and maintained by advertising through periodicals, catalogues or traveling salesmen. Hence, the trust that expects to save the bulk of this important item must also expect to lose through diminished sales more than the economy represents. This is not theory, but the testimony of leading dealers in many lines. A further fact must be reckoned with, at least until the public has received a new revelation, and that is that the deep-seated prejudice against trusts as unfair monopolies will tend to diminish the

consumption of trust-made goods. Increased effort, costing money, will be needed to counteract or compensate for this drawback.

3. ENLARGING OUR FOREIGN TRADE.

The trust argument on this point is weak, both on its economic and its ethical side. The claim persistently made that monopoly-trusts are a necessary means for enabling American producers to meet foreign competition in foreign markets and that an enormous proportion of the recent increase in American exports of manufactured goods has been accomplished by these organizations and mainly because of their trust character is simply fallacious. On the contrary, the maximum of efficiency and usefulness in these directions has been reached by those great independent establishments which have no alliance with or sympathy for the monopoly-trust method of doing business. It is only necessary to refer to a few of the concerns which are doing more than all the trusts combined to market American products abroad, such as the Pillsbury-Washburn Milling Company of Minneapolis, whose exports of flour nearly equal those of all other American mills together, and whose controlling managers have flatly refused all the blandishments of the trust promoters. As to others, we cannot do better than quote the following letter from one of the editors of the Philadelphia Evening Telegraph:

PHILADELPHIA, OCTOBER 4, 1899.

Dear Gen. Nettleton:—In reply to your letter of the 29th ult., permit me to say that none of the great industrial establishments in Philadelphia engaged in contracts for foreign countries are connected with trust organizations, unless the shipments of the Standard Oil Company from this port be credited to that account. The Baldwin Locomotive Works, whose engines now go to nearly all parts of the globe, is simply a joint stock concern, standing alone, with no entangling alliance. The Cramp Ship and Engine Building Company, with $9,000,000 of foreign contracts now on hand, is similarly independent. The Disston Saw Works, whose

annual trade of $10,000,000 is largely foreign, has no connection with any other house, being owned and controlled by the Disston family. The Pencoyd Iron Works, builders of the great Atbara bridge, in the Soudan, for the English government and in competition with the bridge-building firms of Great Britain, is so far absolutely alone. Trusts do not flourish in this town.

Yours truly,

JOHN V. SEARS.

Of course, a part of our increase of exports has naturally come from trust organizations, but, as is seen, much more has come from those large individual establishments which have no taint whatever of the monopoly element about them. The much-quoted agency of the Standard Oil Trust in swelling our foreign trade has little bearing on the present controversy. That concern, by reason of its pipe-line, tank and transportation systems, has become practically a natural monopoly, like a railway, and is in several other respects wholly differentiated from the latter-day trusts now on trial before the country and which usually have no such excuse for being. In a word, great corporations or firms, having adequate capital and modern plants and management, yet having no affiliation with any trust and no itch for monopolistic power, can do and are doing for our foreign trade all and more than the trust can legitimately accomplish.

Second, the ethical side. If, as claimed, in order to "vanquish" foreign manufacturers by underselling them in their home markets, thus driving them to the wall and bringing distress to whole communities of our neighbors over sea, it is necessary to subject our own industries to bondage and build up an unfair competition abroad on an unfair monopoly at home, then the result is not worth the price. Every manly community, domestic and foreign, will expect to face fair competition and take the consequences, but an American monopoly trust, if it possesses the advantages it claims, is playing the competitive game with loaded dice.

IV. EFFECT ON TOWNS, FARMS AND LABOR.

Even if in every other respect the justification of the trust were complete and triumphant, the natural and necessary effect of that system on the villages, towns and smaller cities and on the farm life of this country would compel its condemnation. It is not necessary to draw an imaginary picture of dismantled factories, idle workmen, grass-grown streets and weed-grown farms. It is sufficient to apply common knowledge and common sense to the problem and accept the results, be they favorable or unfavorable to any theory.

Authorities estimate that with no check to present tendencies, within the first quarter of the twentieth century one-half our population will be living in towns of more than 5,000 people. Of those engaged in farming a very large proportion will then more than ever be dependent for their income and prosperity upon their proximity to these groups and centers of population. The absolutely vital importance to the entire republic of a continuance of fairly favorable conditions for our town populations everywhere, becomes too plain for debate. It is fair to assume that the trust system, unless checked by law, will absorb what few manufacturing industries are still outstanding and of sufficient importance to attract the attention of the professional promoter. What, then, may our towns and minor cities reasonably expect under the new conditions?

THE TOWN AND THE FACTORY.

(1) Practically no new manufacturing plant can be started in any town at the initiative of its citizens in a line of industry which is controlled by a trust. The full meaning of this tremendous fact cannot be sensed without recalling the process by which the average town and city have been founded, fostered and developed. In nearly all cases where any considerable growth has been

reached, the local factory has been the nucleus around which much of that growth has centered. To secure, one after another, additional manufacturing plants has been the abiding and never-sleeping ambition of every American town worthy of a place on the map, and the struggles entered upon and the repeated sacrifices made by all classes to achieve this end are evidence, both of the civic enterprise of the people and of the over-shadowing importance attached by them to the building up at home of thriving and permanent manufacturing industries. This process of promoting urban growth by encouraging the starting of new factories and local industries has continued up to the present time, rivalry between adjacent towns in this respect often becoming the chief excitement of the community. It may be broadly stated that the thrift and importance of our towns have been in proportion to their success in starting or attracting and retaining manufacturing plants, and the future can be judged by the past. The fact is sufficiently startling that the citizens of a town are henceforth virtually precluded from themselves starting a new factory in any important industry. But this sharp and ominous disability will be partially compensated for if the trusts can be relied on to do in future what local enterprise has done in the past. Let us see:

(2) If any existing trust were now organizing and starting its particular industry from the foundation it certainly would not scatter that industry in a score of plants throughout a dozen states. If the industry is to have one ownership and one management then such an aimless distribution is unnatural and uneconomic. Some exceptions to this rule would suggest themselves where bulky raw material partially governs factory location, but for the most part the foregoing statement is obviously true.

CONCENTRATION AND EASTWARD MOVEMENT OF FACTORIES.

(3) Almost uniformly the trusts are owned and controlled east of the Alleghenies. Their managers live there. From the moment that a trust takes over a unified industry a process of natural selection begins and proceeds, not perhaps from any definite previous purpose, but inevitably. The mere fact of centralized ownership will naturally lead each trust gradually to concentrate its manufacturing activity within geographical limits easily accessible from the headquarters of the trust. When it becomes necessary or expedient to close or dismantle one of several factories belonging to a trust, other things being equal one will be selected for sacrifice most remote from the center of operations. When there is occasion to build new factories or enlarge existing ones this increase of capacity will also quite as naturally take place within a moderate radius of the central office. When a factory at a distance from the trust's headquarters is destroyed by fire or otherwise, it will be rebuilt, if at all, as part of the central group, and not in the town where formerly situated. This tendency will be accelerated by two important and perhaps valid considerations: First, public sentiment toward trusts in the West and South, and indeed, in country districts generally, is such that trust owners would rather have their plants and other assets nearer home. Second, the immediate vicinity of a great financial and industrial center with its abundant banking and transportation facilities, its labor supply and its opportunities for personal conference between managers of departments and of different but affiliated or friendly trusts must have strong attractions for these great industrial aggregations. Not that a great city is itself an inviting field for large manufacturing plants. Rents and taxation are too high for this. But the hamlets just outside the corporate limits of a metropolis furnish almost ideal manufacturing conditions.

Rents, taxation and the cost of living are relatively low, while transportation facilities and freight tariffs are usually the same as for the city itself, and with fast suburban trains and the telephone all the advantages of the city will be enjoyed, coupled with about all the well-known advantages of the country town as a manufacturing site. The element of bonuses, partial exemption from taxation, and other local aids which towns in their struggle for existence have hitherto employed as a means of influencing the location of new manufacturing plants will naturally have little, if any, influence with the trust, particularly when weighed against the benefits of geographical centralization. Whatever exceptions may occur to this rule, the broad statement is certainly incontrovertible that a trust owned at the East will not scatter new factories throughout the Central, Western and Southern states.

If this diagnosis is correct, and it can scarcely be otherwise unless human nature has changed with the coming of the trust, then not only will a stop be put to the erection of important new factories at points distant from great centers of population or of established industries, but by a steady process of elimination, already begun, a large part of the manufacturing activity now distributed among thriving towns will be transferred eastward, or to the environs of the greatest cities more centrally located. And one leading interest in a place cannot be greatly crippled without all other interests suffering correspondingly. To what extent this blight of American towns will be realized, every citizen, knowing the underlying facts and fairly familiar with the outworking of self-interest, will judge for himself.

TRUSTS AND THE FARMER—THE NEW SECTIONALISM.

As to the interests of the farmer, more specifically: As already suggested, the farmers who live within a moderate radius from thrifty towns have hitherto de-

pended upon such near-by centers as their only market for selling such farm products as will not bear shipment a considerable distance; for example, hay, straw, coarse and quickly perishable vegetables, fire wood, dairy products, etc. To whatever extent the towns are depopulated or industrially depressed, to that extent this important element of prosperity for the farmer is destroyed or impaired. This interest does not appear in census reports, and is scarcely susceptible of being treated statistically, but anyone who is at all conversant with our average farm life will give it great weight. The political gospel of a protective tariff has largely obtained its wide and continuing acceptance in the North and West because it has magnified and emphasized the importance of a home market, illustrated by the picture of the factory near the raw material, the industrial village near the farm, with mutual interchange of benefits between the two. What becomes of this theory under the reign of the trust?

But the fundamental wrong visited upon the American farmer by the trust system is this: The farmer produces and sells raw material. He is rightly interested in selling his product at the highest price and buying his commodities at the lowest price that fair and natural economic conditions will warrant. The trust system brings in unfair and uneconomic market conditions in both directions. All authorities agree to the soundness of this double proposition: When all buyers combine, or there is but one buyer, and sellers compete, the sellers get the lowest possible price for what they sell. When all sellers combine, or there is but one seller, and buyers compete, buyers pay the highest possible price for what they buy.

Apply this to the case of the trust and the farmer. For practical purposes the monopoly-trust is the only buyer of raw material for its particular line of industry, while farmers always and unavoidably compete with

each other in selling—hence, the lowest possible price is received by the farmer. On the other hand, in the nature of the case the trust is the only seller of the manufactured article in its line, while all farmers and other consumers compete in buying; result, the highest possible price is paid by the farmer for what he buys of trust-made goods. The effect of this economic law can only be modified in the present case by supposing that the trusts will be able to cheapen cost of manufacturing their wares and then will benevolently sell them to consumers at prices as low as would have prevailed under open competition. There is no warrant whatever for believing or expecting that this supposition will be realized. The only qualifying factor will be the very moderate effect of foreign competition carried on in spite of the tariff.

It is useless to blink the patent fact that the present trust movement, and particularly the phase of it affecting the welfare of farms and towns and the open door of opportunity for young men, cannot fail to revive and intensify sectional prejudice against the East. No matter how illogical and unfair this may seem, the fact has to be reckoned with by any citizen who really tries to be candid with himself and with the problem in hand. It would be disastrous if the closing of one gulf of sectionalism should be followed by the opening of another.

LABOR AND THE TRUSTS.

If the reasoning from known facts in previous portions of this argument is sound then wage earners as a class, particularly in the central, western and southern states, cannot fail to be injuriously affected by the new monopoly system. There is no disposition to magnify this feature, nor even to dwell upon it unduly, but whatever conclusions are clearly indicated by undisputed conditions and tendencies should not be timidly avoided. If the colossal mistake embodied in the trust system is to be corrected the co-operation of workingmen is impor-

tant to that end and they cannot become too intelligent regarding it. They will form their own opinions of the considerations here presented, for they have acquired the habit of doing their own thinking and those considerations have only so much of authority as they have of reasonableness.

Such, then, is the solidarity of our modern life that serious misfortune or derangement cannot overtake the community without distributing its unhappy effects among all classes. If the monopoly-trust system is in fact a fundamental and far-reaching wrong to society, workingmen will be among the earliest and severest sufferers from that wrong, for they have less of a barrier between themselves and economic harm than any other class. They usually have no buffer of accumulated means with which to soften the impact of disaster. Dislodgement or grave derangement in the field of employment finds them, as a rule, with no resources to fall back upon, no plank between themselves and the sea. The considerations already presented under the head of "Effects on Towns and Farms" would seem to apply with almost equal force to labor. Any economic policy which can have the effect—which puts it into the power of any set of men to produce the effect—there suggested on the manufacturing interests of practically all towns, cannot be other than disastrous to the workingmen whose homes and employments are in those towns. It is not necessary to assume that in those factories that shall finally be maintained by the trusts wages will be seriously cut or unusual despotism practiced. There seems to be no good reason to expect such results, although, as Mr. Dill suggests, many of the overcapitalized trusts will need to save in wages account as well as everywhere else in order to pay dividends on fictitious securities. The labor unions can perhaps be trusted to look after this. Many believe there is more reason to expect alliances between the trusts and their workmen, along the line of the Smith

associations in England. Still the fact has weight that when one corporation is the only employer of labor in a given industry it has tremendous squeezing power over the wage-earners if it chooses to exert it. But it is in the cessation of factory building in the great agricultural states and in the progressive massing of manufacturing industries in eastern and central locations that the gravest danger to workingmen is to be looked for. The dismantling of a western factory can be accomplished by a telegram. It takes longer for the discharged workman and his household to adjust themselves to the new emergency.

There is another peril, and it is suggested by the actual policy of at least one notable trust, which is old enough to have developed its permanent course. We refer to the lowering of the class and type of workmen to be employed by the mammoth new concerns—the degradation of American labor and citizenship. Naturally one would look to the great industries of America as the fit field in which intelligent American artisans are to earn the living and culture of themselves and their families. But if with the coming of the monopoly-trust and an enlarged foreign trade the only consideration is to be the lowest possible cost of production on the largest possible scale, it is not unlikely we may see "wealth accumulate but men decay." Mr. Havemeyer, of the Sugar Trust, in his testimony before the Industrial Commission in August, 1899, said that five sugar refineries were now doing the work formerly accomplished by eighteen, and that the trust employs about 25,000 men, "mostly Poles and Bohemians, because cheaper." On the same occasion Mr. Havemeyer finished this attractive picture with this master touch: "I don't care two cents for your ethics—I'm in this for business." To what extent will it seem expedient to other trusts than Mr. Havemeyer's to concentrate their manufacturing capacity in four or five great plants on the Atlantic seaboard and then man them

with low-grade and easily imported European labor, "mostly Poles and Bohemians, because cheaper?" The open door of opportunity is quite as important to the American workman, his son and his daughter, as it is to any other class.

V. THE DOOR OF OPPORTUNITY.

At the time of its first utterance a great and reassuring truth was embodied in the expression, "The Republic is Opportunity." To an extent that approaches the calamitous the meaning in that phrase is threatened with impairment by the pending revolution. A large section of the generation of young men now facing the twentieth century will find themselves disinherited of opportunity if the trust system succeeds in establishing its principle of private monopoly, and in holding the domain it has seized. Our Western frontier has now reached the Pacific; our habitable lands are practically occupied, or appropriated, our great special resources are being exploited by corporate agencies. By the inevitable changes resulting from settling a continent many of the avenues to independent pursuits, which were open to the youth of thirty and fifty years ago, are closed to the youth of to-day. All the more important and indispensable, therefore, were those remaining channels of activity which, instead of being closed by the country's development, had been broadened and multiplied—namely, the nation's diversified industries and the honorable pursuits allied to them. To these an ever-increasing number of our young men looked for a chance in life, and an ultimate satisfactory career. The trust

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The effect of overcapitalization in the first place is, to do exactly what has been claimed by the labor men. Because of overcapitalization the companies have got to resort to artificial means to pay dividends and so are compelled to put prices up and put wages down. Every director takes pride in the fact that his company pays dividends, and to pay dividends on inflated capital they have got to take money from some place from which they ought not to take it—from consumers through high prices and from labor through lowered wages.—James B. Dill, addressing the Chicago Trust Conference.

system in its logical result shuts this door of opportunity in the faces of our sons.

It is replied that as many persons as ever will be required to man an industry under the new system. Yes, as permanent wage-earners and clerks, not as ambitious employes, who may reasonably aspire to become employers and associate proprietors. It is further said that a young fellow who has it in him to rise will find his way upward, that the meritorious will make an opportunity for themselves. But a chief indictment of the trust system and principle is that they take away the opportunity for making an opportunity. A foothold is necessary to one who would lift himself. The foothold has been removed in a wide part of the field. What promising young man is ever again heard of after he has

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"The present situation, to the good citizen, the good Republican, and the man who loves his country, is really alarming, and it is more largely owing to the rapid formation of what are called trusts than to any other agency. This trust craze has changed the whole nature of doing things."

Thus spoke to-day ex-United States Senator William D. Washburn of Minnesota, head of the extensive flour milling interests in Minneapolis, in an interview with a New York Tribune reporter. Mr. Washburn significantly added.

"When I was a young man—I am now 68— I had the world before me, and there was absolutely a fair field for me. Take all of our most successful business men of to-day and their experiences were like mine. They entered the race without a handicap, and their grit and capacity won. Now this building up of trusts puts a stop to fair and equal opportunities for the young men of to-day. The young man just out of college has no opening, as a rule. He cannot begin business on his own account against organized capital. He must join the procession. He must content himself with being a mere clerk, and the chances are that he will never get any further, because there are so many in his class. This makes the situation a serious one, and I am sorry for the young man of to-day. I've studied the situation and I'm sure of what I am saying."—Chicago Times-Herald, Sept. 11, 1899, p. 5.

On the other hand Professor Gunton takes an optimistic view of the opportunities of young men under the reign of the trust. In his magazine for October, 1899, he says in this regard:

The empty-handed country youth comes to the city for his opportunity. He can do nothing at home; get nowhere. He becomes a clerk or operative in the employ of a corporation. He can study, prepare himself, observe his surroundings and chances, and lay up money. Gradually such an one wins promotion, or if he finds some different and special bent and has it in him to rise, he will and does strike out and succeed. If he lacks any particular force or genius, his clerkship is the best place for him. The world is not closed to talent; it is urgently demanding it, and the only real complaint that holds good is the scarcity of exceptional merit.

entered the comfortable employ of the Standard Oil Trust? He is bottled up.

The fact should not be omitted (though the abuse is not peculiar to the trust system, except in extent), that in most of these great aggregations, where because of mere size the real managers cannot be in personal touch with many employes, a special and vicious form of nepotism and favoritism prevails in the matter of getting positions. It first includes the sons-in-law and nephews of leading owners and officials, then the social cronies of these, and finally an outer circle, comprising the cronies of the cronies. It is sometimes not an easy matter for even a brainy and forceful young fellow, if he have neither a "push" nor a "pull," to break through this triple line. Of course, all grades of efficiency are represented by these semi-favorities, and it is fair to say that, in most instances, when once employed they find their level by merit, or demerit, and the fittest survive.

What is herein said, concerning the probable effect of the trust movement on American towns and farms, applies with special force to this matter of opportunities for young men. The country town, minor city and the adjacent farm are the usual starting places for the men who subsequently lead events in the metropolis. They are the nurseries of forceful character. Leaders of men are seldom born and reared in large cities. What hereafter will be the opportunities of aspiring lads, reared in and near the average country town? It is already a common remark with business and professional men who themselves succeeded under conditions now fast passing away, "I am wholly at a loss what to advise my son to do." To what extent our new tropical possessions may open new avenues, at the cost of exile, remains to be seen.

And this closing of avenues to honorable business careers is scarcely the most serious consideration under this head. Unless the leopard is to change his spots and human nature suddenly become regenerate, the trust and

the associated trusts will have a final word to say as to the political career of any rising young man who promises to have aggressive influence in civic affairs. Their heavy, though often invisible, hand will be everywhere present in political events. As Senator Chandler says in his letter, given elsewhere in this book, "No young man can rise in his political party, become a local party leader or aspire to public office until he has given the trusts to understand that he will not seriously exert himself to harm them." The spectacle of the Sugar Trust in the United States Senate is grim advance confirmation of this prediction.

In a word, so far as lies in the trusts with their scores of industries absorbed and more in waiting, and their billions of capitalization, it is no longer true that "The Republic is Opportunity."

COMPETITION—ACTUAL, POTENTIAL AND SPURIOUS.

After the champions of the trust have been led to understand that the only trusts which the people are talking about are the monopoly-trusts, and not at all those "large corporations," which are engaged in a legitimate competitive business, they proceed to defend private monopolies on the ground that their self-interest and safety will lead and compel them to sell to consumers at prices reasonably low so as not, by a show of high profits, to tempt outside capital and skill to start competing plants. This desire of outsiders to break into the preserve of the industrial monopoly is called potential competition, and it is admitted that, in the absence of laws which do not now exist, this will be the only barrier to protect the people against excessive prices and other abuses at the hands of the trusts.

What sufficient force is there in this argument?

It is evident to all without consulting the political economists that where there is a constant and imminent probability of new competitors springing up in case ex-

isting manufacturers fix and hold their prices at too high a level, this fact has some deterrent effect on the latter, and hence furnishes some protection to the public in case of virtual monopoly of any industry. This is all that can safely be admitted. On the other hand, in no case can this protection be such as to make a permanent private monopoly either safe or tolerable. In a majority of instances causes to be named will prevent this element from having any considerable protective effect within limits that would make it of material value to consumers. In normal circumstances, when social and economic forces have proper play, potential competition is an important factor; but under the artificial and anomalous conditions of the monopoly-trust tolerated by law, that factor disappears or loses most of its vigor. Society has had absolutely no experience with a condition of things resembling that which will prevail as soon as the new monopoly system feels itself safe in the saddle; and in regard to this matter of potential competition economists are probably too optimistic in attempting to apply to this new situation the maxims and knowledge of the past.

When once an entire business has been absorbed by a single interest, it requires either great courage or much foolhardiness to attempt to make head competitively against it. Capital, if not timid, is usually conservative, and does not covet the uncertain task of trying to start a new business in face of a powerful monopoly controlling or at least occupying all the avenues of trade. It is particularly hazardous and difficult (a) when the enterprise requires large capital, as will be the case in contending with any modern monopoly trust; (b) when the business itself is one involving considerable risk; (c) when elaborate equipment is required which is slow and costly of construction; (d) when highly trained experts are required. After the trust has been running long enough it will have in its employ about all

the available and satisfactory talent of this sort. (e) When the trust business is in one or more important particulars protected by patents or trade-marks, and this is very frequently the case where a trust has gathered in all the plants of an industry.

THE GIANT AND HIS CLUB.

Thus far we have enumerated only those obstacles to new competition which naturally arise in the course of business events, and are largely negative or passive in their nature. It remains to mention the principal and most conclusive obstruction in the path of the would-be competitor of a trust, namely, the aggressive, unscrupulous and remorseless campaign of the trust management to circumvent, defeat and destroy any real competitor who shows his head.

Discriminating railroad rates alone would go far to prevent new competition. In this and other methods of warfare the rule of commercial morality likely to govern the average trust is sufficiently illustrated in the outline of the Standard Oil episode at Marietta, given elsewhere herein. The weapon of discriminating prices is not less effective than that of discriminating railroad charges and scarcely less unfair when practiced by an unfair monopoly. When the trust, doing business throughout the whole country, can sell goods below cost in the relatively local field of any rising competitor, while itself making profits everywhere else, competition is next to impossible.

Then, after a monopoly-trust, by all means at its command, has driven and kept competition from the field for a considerable time, possible competitors are apt to lose all interest and alertness, go about other business and, together with the general public, settle down to the conclusion that the trust is permanently in the saddle and that any further thought of competing is idle. Or, if perchance a competitor, by reason of strength, becomes formidable after years of battling, it will usually be only a

question of price for the trust to absorb the new rival, and then will follow more years of monopoly and—peace! In fact, this whole argumentative fog of potential competition can best be illuminated by

AN ECONOMIC PARABLE.

A plentiful Orchard fairly belonged to all the People and they had been accustomed to gather the Fruit. One morning in Harvest time when the People approached the Gate a new Giant with a huge Club obstructed the Entrance, while his healthy Children busily plucked the fine Apples within and kindly offered them for Sale to the People outside at the cut Price of one Shilling per Apple. On being remonstrated with by the waiting People and charged with being a Monopolist, the Giant, with winsome Candor, replied: "Indeed, I and my Family are no Monopolists; we are ourselves much harassed by Potential Competition, since you are all quite free to enter the Orchard and compete—if—you—can—get—past—this—club—of mine."

Let us again remind ourselves that the legal right to compete has little economic value or restraining effect if the power to compete is lacking.

FICTITIOUS AND TOLERATED COMPETITORS.

It is a favorite and often fairly effective device of some virtual monopolies to leave in operation a few minor independent concerns. This is supposed to accomplish a double purpose. By an appearance of actual competition it serves to delude and pacify the public by concealing the fact of substantial monopoly, to temper the general criticism encountered by all monopolies and to discourage those on the outside who are looking for business openings and who might become real competitors. No-

The Tin Plate Trust is said to have contracted for a term of years for the entire output of machinery in that line in the U. S. and thus to have forestalled any would-be competitor who might be tempted by the present exorbitant profits. The officers of the trust state that this is not the case.

body enjoys doing business in an atmosphere of intense public odium. So desirable is this semblance of competition, especially when competitive bids are called for at lettings of contracts, that "dummy" competing companies are sometimes organized and maintained by the monopoly company. Accordingly the average trust organizer rather prefers to have from five to fifteen per cent of the weaker plants representing his industry left unabsorbed by the trust, and this is commonly done. Result: The trust points to them and says, "Observe that we are not only held down to low prices and good behavior by potential competition, but behold, the actual competition is on our backs." Meanwhile the trust quietly establishes a protectorate over its harmless competitors and tacitly agrees to tolerate their survival so long as they refrain from cutting prices and enlarging capacity. The Standard Oil now refines 82.3 per cent of American petroleum, whereas in 1889 it refined but 75 per cent. It may well prefer, for appearance's sake that the few remaining independent refineries should continue in business, and doubtless shapes its policy to this end, although it could close them up in ninety days.

A SYSTEM OF UNIVERSAL PRIVATE MONOPOLY.

We cannot permit the system of private monopoly as embodied in the trusts to survive and prosper unless we are prepared to see that system invade every field of human activity where it can be made profitable. If accepted at all it is accepted wholly. It involves a change of the principle governing the business relations of all men—not simply the relations between certain corpora-

The contention that the trust system will tend gradually to concentrate factories in the East or in the vicinity of great cities centrally located needs to be construed in the light of the obvious fact that in the case of heavy goods the matter of freight charges will permanently compel some distribution of plants between the East and the West. But this fact will not prevent the progressive removal of plants from country towns and the smaller cities to the environs of the largest cities in the same general section.

tions and the public. The law cannot allow the giant monopoly-trusts to exist and at the same time attempt to prevent or punish small monopolies, combinations and agreements to destroy competition. If the big fish are to pass at pleasure through the meshes of the law against monopoly, the little ones can and will surely follow through the opening. In every domain of life the new oppression will confront and annoy. The bondage will not be that of a hundred feudal masters, but that of a thousand petty tyrants. The "combines" of the butchers, the bakers and the candlestick-makers will emulate the greater trusts, just as the allied plumbers and plumbing material men in Chicago have already done, fix prices and regulate the citizen's rights at their will. The legal wall against monopoly is useless against small monopolists, so long as it is prostrate in front of the great ones. A general inundation by the Mississippi cannot be prevented by attempting to maintain an effective levee along portions of the river while there is no barrier at the most critical points. It is a system of universal private monopoly that we are invited to adopt.

Already the advance guard of this incursion of monopolistic vermin is making its appearance. Two examples will serve where twenty could be given: The Chicago plumbers and the dealers in plumbers' material are now in combination and prevent any householder from buying any article of plumbing material, and hence from doing any repairs for himself. A house builder is prohibited from using any plumbing material he may have on hand, but must buy new from the monopoly dealer. Another sample of the new method is thus editorially stated in the Chicago Tribune for November 23, 1899: "The situation in the horseshoeing industry in McLean County, Illinois, is typical of present trust methods. The blacksmiths and horseshoers of that county met Tuesday and organized what they call a 'county protective association,' but which is in effect a trust. They have adopted a new scale of charges that provides for an increase of 20 per cent. in the price for horseshoeing. The excuse given for the increase is that the price of materials has been raised by the manufacturers. One would expect that the maintenance of a blacksmiths' trust would be difficult, but the farriers have the aid of the manufacturers in carrying out their plans. The hardware association, from which they buy their goods, has agreed that it will charge a prohibitive price to all blacksmiths and horseshoers who are not members of the association. The result will be that the public will be forced to pay the increased prices and possibility of competition is prevented."

MONOPOLYTRUSTS AND SOCIALISM.

This thought is crystallizing in the minds of many American citizens to-day: The end of competition will be the beginning of socialism, in some form.* There is no middle ground on which society can stand for a day. It is like the meeting of the land and the sea; as the shore is only a line marking the point where the one leaves off and the other begins, so established monopoly will be the line showing where competition leaves off and government ownership begins. No people of Anglo-Saxon lineage will long consent to live under conditions imposed by irresponsible private monopoly. It is either a restoration of economic liberty, or monopoly by the people, for the people. If, in the progress of human society, the hour has struck when socialistic methods must needs displace the historic order, very well; along the line of genuine evolution the inevitable is seldom a calamity. But most of us believe that no such epoch is at the door unless it be invited, hastened and compelled by human folly. And this is the crowning offence of the new system of monopoly-trusts, that so far as in it lies it forces society forward before the time, on the road which has but

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"The capitalist and captain of industry in these later days has set himself to demonstrate that the theories of the socialist are sound. After some centuries of adherence to the principle that competition brings the best results and the greatest progress for the individual and for society, suddenly many thousand employers and capitalists rush out of business, give up the positions they occupy and the plants they own in order to avoid competition and set themselves to prove that society can be best and most cheaply served and the workers and managers from highest to lowest can get better returns, if all productive work in each branch is performed by a single, centralized body, controlling wages at pleasure, abolishing agents and middlemen, restrained by no competition and responsible only to society as a whole. If this theory be true, does it not follow as a matter of course that society as a whole might better take possession of the plants and control the business and absorb for itself the profits of production or the gains by cheapening production at its pleasure?

If the modern combination proves that competition is no longer a benefit, but a curse; that individual struggling for success is no longer needed to evolve the best inventions and devices to bring them into use; that the monster corporation can work more cheaply, and at the same time more wisely and ably in handling many establishments of

one ending. It is not difficult for the thoughtful to concede that present social arrangements are probably not permanent, but if we are to escape sharp disaster the preparation for the new social dispensation must be far more gradual than the trust-builders seem disposed to permit. They would scarcely need to change their course or modify their plans if they really wished to force the American people to choose forthwith between the devil and the deep sea, of monopoly on the one hand and socialism on the other. Leading exponents of the socialistic scheme here and abroad believe their day is dawning and they look to the monopoly-trust movement as its harbinger.

As to Trust Prices.—The question whether trusts will ultimately fix prices high or low has from necessity been discussed incidentally in previous portions of this argument. Obviously the time has been too short, and from other causes the recent market situation has been too chaotic, to predicate anything of present trust prices. All prices have risen sharply during the main development of the trust movement, but only here and there can such rise be clearly and fairly traced to monopoly influ-

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different kinds, far apart and under different circumstances, than the individual owners who have created them; that it can prevent the frequent stoppage of the weaker works, while the stronger continue to thrive; that society no longer needs any defense against monopoly, because the monopoly must always cheapen in order to enlarge business, and that workers, consumers and employers will all gain by elimination of competition, then, indeed, the socialist has only to demand the logical completion of the journey. There will be no sense in leaving the big corporations to blunder along, sometimes losing and sometimes hurting society by unwisdom, when society itself can appropriate their plants, direct their labor, make and bear its own blunders and pocket its own gains.—New York Tribune, April 27, 1899.

The thinking socialists of to-day approve of all combinations and trusts, recognizing the obvious fact that it is only necessary for combinations to move forward to bring us to a period of socialism. This idea is clearly brought out in Laurence Gronlund's "Danton in the French Revolution." A political economist recently remarked: "If I were a socialist I would say to these industrial leaders, 'Keep right on, gentlemen; you are realizing for me my dreams. It is now only necessary for me to fold my hands.'" Socialism means a universal trust. Combine all trusts into one and then it is only necessary to place a representative of the people in control to have socialism pure and simple.—Prof. Richard T. Ely in "Problems of To-day."

ence. There is merit in the contention of many opponents of the trust that this subject of resulting prices to consumers is really subordinate to many others that are involved in the trust system, much as this claim may surprise or amuse gentlemen who have become accustomed to viewing all things through the glass of a student of economics. In the life of a people, as of an individual, a hundred occasions arise when economic considerations have to be given a secondary place or be wholly ignored in order that more fundamental problems, ethical, political or sociological, may be solved aright. A mere assurance to the community of somewhat lower prices for certain commodities would be a shabby return for a surrender of industrial liberty—as though the state should tender to the self-respecting citizen free board if he would consent to live in exile. But the trust is not even strong on the sordid or mercenary side of the argument. Such has been the experience of mankind with those partial and temporary monopolies which have hitherto existed that the term "monopoly prices" has become fixed in the common speech of the people and with a meaning that nobody misundestands. Idioms like this do not grow out of nothing. No recognized and disinterested authority has yet made the claim or ventured the prediction that the trusts, when settled in the saddle, will fix prices lower than they would be under a competitive system. Professor Jenks says they could do so, but will not. The only question among the political economists is how far above a competitive level trust prices will finally be held. Even those writers who, like President Hadley as quoted herein, take the most hopeful view of the situation, only venture this assur-

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The fixing of prices by all who have goods to sell is for the purpose of making the highest possible profit, whether monopoly or not. The monopolist puts his price as high as he can without thereby lessening the demand for his goods more than enough to counterbalance his high profits on each individual sale.—Prof. J. W. Jenks in Johnson's Cyclopedia.

ance, that in the long run, after the trust managers have learned wisdom from rough experience, "after a great many legitimate interests are sacrificed in the process," and after making full allowance for potential competition, trust prices will range above, but not exorbitantly above, the level at which fair competition would have placed them. Professor Jenks says the same thing in different language, and both make allowance for the prevalence of high monopoly prices in many lines and for uncertain periods because of the combined greed and suicidal folly of some trust managers.

It is not improbable that even this rather somber price outlook fails to reckon with one important factor: Society has had absolutely no experience with a general, solidified, accepted and permanent monopoly system, such as our trust movement is or aims to be, and such as a policy of public toleration will permit it to become. So-called monopolies of the recent past have been only apprentices, tyros in the art compared with the new arrival. They have been hampered and harassed at every turn in their efforts to assert and confirm their monopoly advantage; they have been driven from one illegal refuge and expedient to another by the law officers and the courts; they have needed to conciliate in order to survive; they have thus been in no position or mood to antagonize society by unduly raising prices. A budding monopoly which, like the Standard Oil in the past, is kept busy defending its corporate life and crushing out surviving competitors, has ample reasons of diplomacy for holding prices at or below the competitive level, until the period of stress, struggle and odium is passed. The price policy of such a monopoly under such conditions can furnish no criterion by which to judge the probable course of our present family of monopolies when they shall have been freed through legal recognition and the cessation of public criticism from most of

the disabilities which have held down their predecessors.

As to restraint of monopoly through potential or possible competition, all economists agree that trust prices will have to be placed and held very materially above the competitive level before new competitors with adequate capital, skill and experience will be tempted to enter the field against the enormous enginery of crushing power wielded by a continental monopoly-trust. In any event, the trusts will hold prices as high as their self-interest dictates. Where that self-interest is enlightened, by long experience or otherwise, prices will be considerably, but not excessively, above the competitive plane; where it is unenlightened prices will be correspondingly higher, until something breaks—and meantime, as President Hadley remarks, many legitimate interests will be sacrificed.

However, it is sufficient to accept the moderate outlook first above referred to. If the people are to pay not lower, but somewhat higher prices, under the trust dispensation, as even the most favorable view concedes, what return are they receiving for their enforced surrender of industrial freedom, for their permanent exclusion from industrial pursuits? They are invited to go into industrial exile for their own economic advantage, and then not only is that advantage withheld, but they are taxed for the privilege of such exile. They are invited to exchange their bread for economic cake, and in fact receive an economic stone.

APPENDIX

TO THE ARGUMENT AGAINST THE TRUST.

CONCERNING TRUSTS IN EUROPE.

In the course of the foregoing argument against the trust the statement is made that the system does not prevail in Great Britain nor in continental Europe, whence the inference is drawn that the movement in the United States is probably artificial and not a necessary trade evolution. This inference is manifestly important if true. Inasmuch as President Hadley of Yale University, in his writings, in common with several other economists, assumes rather than states that in effect, if not in form, our monopoly trust system does prevail in the leading commercial countries of Europe, the editor addressed him a note of inquiry on the subject, calling his attention to the very explicit letter, printed on another page, from Mr. Percy Sanderson, the British Consul-General at New York.

It was suggested that about the only approach to the typical American trust yet developed in England was the group of malodorous industrial bubbles inflated by the notorious Hooley and his titled retainers—enterprises which even the most zealous champion of the trust system would scarcely claim as the offspring of economic evolution. In his courteous response, dated November 14, 1899, President Hadley says: "All the German authorities unite in the quite unequivocal statement that the industry of that country is organized in close combinations or syndicates, analogous to trusts, and give a sufficient number of details to make the correctness of their information unquestionable. The best summary is found in Liefmann on Industrial Combinations. It has not been translated into English. For matter bearing on the subject in France refer to the files of the Journal des Economists and the Revue d'Economie Politique." Of Great Britain President Hadley says: "English information is more scattered." He refers to the well-known Mogul Steamship case (in deciding which, some years ago, the English courts seemed to assert the broadest liberty of combination among

competitors) and concludes thus: "This will probably refer you to other cases. The English keep these matters so quiet that you do not find out about them until they get into the law courts. I wish I had time to look up references in detail, but pressure of business makes it impossible. If you are not already familiar with Liefman you will find it well to get at it at once, for it is the one really comprehensive and systematic book on the subject which has been issued in any language."

Thus, while President Hadley seems not to have at hand any evidence of the existence of monopoly-trusts in Great Britain, and they certainly could not exist to any appreciable extent without the fact being known to the public, he makes a somewhat positive statement respecting Germany, mainly on the authority of Dr. Liefmann. Independent investigation led the writer to suspect that Dr. Liefmann's references had been misconstrued and to believe that Germany was no exception to the rule that even in effect or substance the American trust system does not prevail in European countries. An effort to settle this point on authority which no one could question resulted in the correspondence which is given herewith. It is well known that the German consular service in the United States is characterized by the most thorough-going intelligence respecting the commercial, industrial and financial conditions prevailing both in Germany and America. This is especially true of the Imperial German Consulate at Chicago, which includes in its membership a most competent trained specialist on these subjects in the person of Mr. G. D. Waetzoldt of Berlin. Such an expert, necessarily and constantly studying and coming in contact with the practical and comparative workings of commercial and industrial methods in both countries, is obviously the best possible authority on such a question:

Chicago, Nov. 27, 1899.

Mr. G. D. Waetzoldt, Technical and Commercial Attache, Imperial German Consulate, Chicago.

Dear Sir:— * * * You are aware that a very large number of leading industries in the United States have been practically unified or consolidated, each under a single ownership technically called a trust. This has been accomplished in each instance by the organization of a corporation and the purchase by it of the plants and businesses (not the stock capital) of all or nearly all the manufacturing concerns constituting a given industry within the republic, thus suppressing all effective competition and creating a virtual monopoly in such industry.

Inquiry has brought to me the information that no trust system or movement substantially like ours exists in the German Empire,

but that in each of your leading industries there is an understanding or syndicate arrangement whereby all manufacturers agree upon a minimum selling price throughout the Empire, which price is usually fixed at a very moderate margin above the cost of production, the general object being to prevent what is known here as cut-throat competition, and to maintain a level of prices fairly remunerative to producers and not oppressive to consumers; that above this low level of prices entire liberty of fixing prices prevails; that in other respects the usual forms of reasonable competition are practiced among the members of each syndicate, as in the case of competitive bids for contracts, purchasing of raw material, etc.; that there is no considerable movement in Germany toward the merging of an entire industry throughout the Empire in one great corporation with a view to eliminating competition and creating and maintaining a virtual monopoly; that each manufacturing concern which is a member of a syndicate maintains its entire industrial independence.

I wish you would inform me whether the foregoing information is substantially correct, and give me any further facts at your disposal as to the practical working of the German syndicate system. For example:

1. What is the attitude of each syndicate toward new competitors, or those who propose to become competitors in the same field?
2. Are these syndicate arrangements or organizations considered entirely lawful?
3. Is there any popular protest against them as being monopolistic, and do consumers complain that prices are exorbitantly high in any lines because of these agreements or combinations among manufacturers?
4. Are these syndicate agreements usually in written form? What penalties attach to their violation, and are they enforcible at law?
5. Do these syndicate agreements in any instances include a limitation of product for the purpose of preventing supply from outrunning demand, and thus dropping market prices below the level of cost?

Yours truly,

A. B. NETTLETON.

REPLY.

Chicago, Nov. 28, 1899.

Gen. A. B. Nettleton, Chicago, Ill.

Dear Sir:—Replying to your favor of November 27th, I take pleasure in giving you the following information concerning "trusts" in Germany:

You are right in assuming that corporations or "trusts" of the character such organizations have in the United States do not exist in Germany. There may be in Germany some corporations or syndicates that come pretty near to your system of purchasing and closing, indefinitely or temporarily, competing plants; but such corporations are not as numerous, powerful or far-reaching in scope of monopolization as, for example, are the American Steel & Wire Company or the International Paper Company.

The most characteristic feature of the "Trust" in the United States consists in the purchase of plants and businesses by the organizers of the Trust, the retirement from business of the former owners of these plants and businesses, and the loss of their individuality by the concerns that are absorbed by the new corporation. There are, of course, cases in Germany where smaller concerns are bought up by larger ones, as, for instance, Friedr. Krupp buying mines or shipyards; but as a rule such purchases are not made for the purpose of forming a trust or monopolizing a certain industry. As you point out in your letter, the general object of numerous associations or syndicates of manufacturers in Germany is to prevent the ruin of their respective industries by "cut-throat" competittion through an agreement concerning the minimum selling price of manufactured goods. The form of these agreements differs largely and ranges from a "gentlemen's agreement" to the most rigid stipulations. Aside from agreements as to minimum selling prices there are agreements made occasionally in regard to the establishment of central offices for the sale of the goods manufactured in the plants of the members of the syndicate or for the distribution of orders among them or for both purposes. Every individual member of a syndicate or association remains in absolute control of his plant or plants, and is not in any way interfered with or hindered in running his plant or plants as he deems best to gain advantages by producing at a cheap rate.

Answering your special questions, I would state as follows:

Question 1. The attitude of syndicates toward new competitors in the same field depends on the character of the syndicate or the new competitor. If a friendly understanding is out of the question, the syndicate will be compelled to protect its interests by all lawful means.

Question 2. Syndicates or organizations of the character mentioned above are lawful. In conducting their business or fixing their rules, they have, of course, to comply with the laws concerning the formation of commercial corporations or stock companies.

Question 3. There is no popular protest against the syndicates as being monopolistic. Complaints are made occasionally by some manufacturers, when prices of materials in crude or semi-crude condition are raised by syndicates.

Question 4. Syndicates' agreements are usually in writing; the penalty for violation thereof consists in fines enforcible at law, provided that the syndicate itself is lawful.

Question 5. The sole purpose of some of the syndicates is to limit production and to prevent the market price from dropping below the cost of production through overproduction and consequent overstocking.

Yours very truly.

G. D. WAETZOLDT.

COMMENT.

I. Inquiry elicits the information that the industrial syndicates in France are not more like American trusts than are those of Germany.

II. It becomes evident that those American writers on economics who have assumed without original investigation that our monopoly trust system substantially prevails in Europe are simply mistaken, and their economic deductions based on that assumption are not only valueless, but are distinctly misleading at a most critical time in our own industrial history.

III. It is apparent that although the German syndicate system possesses objectionable elements, is open to some abuses, and would at present be illegal in the United States, it is nevertheless free from nine-tenths of the injurious and dangerous features which characterize the American monopoly trust system, and which have been outlined herein.

IV. It is not impossible that the next and permanent form to be taken by American industries will in many respects closely resemble the present German system, with such modifications as will adapt it to our circumstances and to the genius of our people. Most thinking persons agree that it is desirable, if not indispensable, to find a reasonable middle ground between unbridled and destructive competition on the one hand and arbitrary and intolerable private monopoly on the other. Such a system would permit the free play of economic forces within the lines of public welfare; would preserve all that is valuable in the competitive system, while avoiding most of the evils that have heretofore been regarded as inseparable from it; would encourage large-scale production up to the maximum of efficiency and economy, but would prohibit passing beyond that natural limit to the stage of monopoly for the sake of monopoly; would introduce common sense into the methods of production and distribution, and banish the lunacy involved in the old theory that competition is necessarily commercial war; would allow producers to co-operate or agree in order to compete more humanely, more sensibly and more profitably, but would prevent combination and agreement to monopolize and oppress; would preserve independent and diversified proprietorship and maintain the open door. It goes without saying that such a result would be a compromise; that it would require on the one hand the distintegration and retirement of the modern trust system, and on the other a modification of the rule of public policy and of statute law, which now in many places prohibit even reasonable agreements to regulate competition, preserve the solvency of industries and the steadiness of business and employment, and thus promote the public welfare.

V. In scores of instances throughout the United States local and

general industries have been for years, and now are, protecting themselves from mutually destructive competition by arrangement or harmony of policy as to prices and other details of business without entering into affirmative agreements or combinations that are contrary to public policy, or in violation of anti-trust statutes. Examples are the two leading telegraph companies, the five great express companies, practically all of the trunk railway lines and many manufacturing industries not merged in trusts. This course, which may be denominated concert without compact, is distinctly favored by the United States Supreme Court in its decision of the Joint Traffic Association case (Supreme Court Reporter, Vol. 19, No. 3, page 35).

Students of the trust problem will profit by reading the remarkable book entitled "Anglo-Saxon Superiority: To What Is It Due?" by Edmond Demolins, director of the French review, "La Science Social" (1898). Written by a leading French specialist in sociology for a French audience, it is a marvelous grouping of facts and arguments in proof of French degeneracy along nearly all lines, and what is still more remarkable most French critics commend the book and its conclusions. M. Demolins not only admits, but proclaims, that the French people are afflicted with a racial inferiority which manifests itself in commercial, industrial, financial and domestic affairs; in short, that the radical defect inheres in French character and hence inevitably shows itself in about every manifestation of French life. This includes a limitation of progeny for economic reasons to a point which at length threatens the relegation of the French nation to the third or fourth rank. The chief fundamental difference between the Latin and the Anglo-Saxon character, the French author finds to be this: The Latin inherits and absorbs from his environment the communistic or gregarious taint and tendency, while the Anglo-Saxon both inherits and cultivates the tendency to individualism or particularism. The outworking of these diverse tendencies in racial character, method and aptitude goes far to account for the inferiority and decadence of the Latin and the superiority and sustained progress of the Anglo-Saxon. The Frenchman is born and trained to lean upon the state, upon society, upon organization and institutionalism, to live and move in herds, and in an atmosphere of dependence and opportunism. French boys are mainly educated in how not to take the initiative, how to avoid an independent or individualistic career, how to "get a job" and hold it, in the army, the navy, the church, in the civil list, or in subordinate service for a great organized industry. On the other hand, Anglo-Saxon youth, at least hitherto, have mostly been taught from the first to stand alone, and then to carve their own way in life, with a strong preference for being first in their own establishments, though small, rather than holders of chairs and recipients of salaries in governmental or industrial bureaus. The difference in result is the difference between men and

bureaucrats, between advance and stagnation. The candid student of current events may conclude that a central wrong of the American trust system is that it introduces a Latinizing tendency into Anglo-Saxon civilization; that it is thus a force which makes distinctly for degeneracy in our national character. So far as its influence extends, and it is far-reaching, it threatens to produce in America conditions resembling those in France and other Latin communities, as frankly characterized by this eminent and fearless Frenchman. Robust individuality, self-reliance, power and preference of initiative, distinctive personality, ingrained choice of independence, instinctive revolt aganst bossism, these, combined with that saving common sense, which gives power and aptitude for self-respecting association and co-operation for producing large results, are the traits which all recognize as forming the base and crown of Anglo-Saxon character and civilization. Yet these are precisely the traits which the new system of monopoly-trusts must undermine and largely eliminate before it can become the accepted industrial and commercial policy of our people.

Professor Jenks defines a trust, or capitalistic monopoly, as an organization which "so controls business, whatever it may be, as practically to regulate competition and to fix the prices of its products on the whole with little reference to competitors, or to the cost of production, but mainly with reference to securing the greatest net results."

OVERCAPITALIZATION.

In spite of all glosses the systematic and audacious overcapitalization of trusts is a wrong of the gravest character and greatest magnitude. (1) Without the inducement of this fabulous reward to promoters, their bankers and some manufacturers, the trust system as it now is would have been non-existent. (2) It deludes and swindles investors, and while there is some justice in the contention that intelligent persons were sufficiently warned by the abnormal and evidently speculative nature of the investment, yet the great mass, particularly of small investors, cannot discriminate. (3) But the central and enduring evil of overcapitalization lies here: This fictitious capital and the possibility of making it worth par in the market is the colossal bribe urging on the trust owners and managers to extort from all available sources profits large enough to accomplish this result. The element of water in our existing trusts does not fall below $3,000,000,000. If dividends are to be paid on this bulk of spurious capital, or on any great part of it, this new and added burden upon our industries must fall somewhere. There are just three sources from which this dividend fund can be drawn: First, from legitimate economies resulting from large-scale production and distribution, and these are not equal to one-tenth of the requirement; second, from reduced rewards

to labor and to producers of raw material; and third, from higher prices to customers. To illustrate by approximate figures: Before the trust came the owners of all American tin plate mills were content to make a profit of say ten per cent. per annum on an actual investment of $10,000,000. Hereafter they will only be content to make like dividends on $50,000,000, with but slightly greater investment. Extend these figures in due proportion to all the industries that in the past two years have been consolidated with stock and bond capital multiplied from two to nine times beyond actual values of assets and good will, and the size of the problem is realized. If the monopoly-trust system is really here to stay this tremendous mortgage on the future promises never to be discharged. If it be again suggested that the fear of possible competition will prevent the earning of dividends on much fictitious capital, the facts of recent history do not confirm this hopeful view. President Hadley, speaking of the temptation under which the managers of modern trusts constantly labor to raise prices in the absence of competition, says: "Our past experience with industrial consolidations proves that very few men are capable of resisting this temptation or of exercising the wider power over business which the modern system places in their hands,"* and he implies that the trust may be expected to hold prices as high as it can and not destroy its market and thus destroy itself. But a more conclusive answer is the fact that three of our trusts are to-day earning dividends on the equivalent of not less than $300,000,000 of fictitious capital. The natural policy of the managers of the newer and overcapitalized trusts will be at first to keep prices down (1) until competition is permanently disposed of, (2) until public criticism is allayed, (3) until they have gathered in the outstanding common stock at nominal prices, after which they may be expected to fix prices of commodities as high as the market will stand, in the absence of competition and proceed to pay dividends on both preferred and common shares.

TRUSTS VS. "LARGE CORPORATIONS."

Prof. Gunton, in Gunton's Magazine, for September, 1899, says: "There is not a trust left in the United States. There never were more than about half a dozen and they have all been dissolved and converted into large corporations. In reality, then, the war on trusts is a war on corporations, pure and simple. * * * To call it a crusade against trusts is to practice a fraud upon the people." Senator Mark Hanna in a press interview (October 22, 1899), quotes this language of Prof. Gunton approvingly as virtually disposing of the trust question. It seems incredible

*"The Formation and Control of Trusts," Scribner's Magazine, November, 1899.

that any one should attempt to silence a great debate with a play upon words, as if one should attack the ten commandments with a pun. Except these two gentlemen the whole nation, including legislatures, courts, law writers, political economists, the entire press and seventy million people have agreed to call by the name of trust, that new thing, the large corporation organized for the purpose, and which deliberately monopolizes an industry. The name, trust, was, of course, transferred and adapted, by a well-known process in language-building, from the real trust organization originally employed. Let us see if an object lesson will make clear the difference between a large corporation and a trust: (1) The Baldwin Locomotive Works, of Philadelphia, is a corporation, whose large capital and whose vast business reaching every continent, have developed naturally. It has carried large-scale production to the maximum of economy and efficiency by repeated enlargements of its one plant. It possesses and seeks no monopoly. It meets and does not complain of actual competition, domestic and foreign. Its owners are content with, and consumers are taxed for, a fair return on a conservative valuation of its business, which for the present purpose may be estimated at $10,000,000. This is evidently not a trust. (2) The American Tin Plate Company is also a corporation, but here the resemblance ceases. It was recently organized for the sole purpose of monopolizing the tin plate industry in the United States, and this it has done, by absorbing all of the thirty-five establishments, thus artificially and arbitrarily suppressing all competition in a necessary staple. The plants and businesses which it bought had an approximate value of $10,000,000. On this basis the new company issued $50,000,000 of stock of which President Reed has testified that ten millions were given to Judge Moore, the promoter for his brief service in bringing about the consolidation. For various reasons the price of tin plate has been nearly doubled in eighteen months. The vice-president of the company testifies that it is now earning dividends on the entire stock capital, which means that consumers are taxed to pay a return on at least four times the investment and fair value of the business. This is evidently a typical trust.

A TRUST DEFINED.

The report of the Lexow Trust Investigating Committee of the New York State Senate, filed March 9, 1897, clearly draws this line of distinction between the legitimate and natural centralizing tendency within competitive lines on the one hand and the monopoly-trust on the other. As to the first the report says:

"Combinations of capital starting with small partnerships and terminating with large aggregations, based on corporate organizations, representing the contributions of innumerable stockholders to a common fund, thus investing for the purpose of reaping the reward arising from economies growing out of the concentration of resources and the employment of the best skill, the highest intellect, the most improved machinery and the most qualified labor, are not in themselves, in our judgment, reprehensible or against any known principle of public policy. That the latter have been increasing in size, in wealth and relatively in influence within recent years, is a sign of the times which naturally gives rise to discussion, to conjecture, and in some cases to apprehension as to the future. But it is a situation which seems to be the natural evolution growing out of the fierce contest for supremacy in the fields of commerce and finding a reflection in almost every department of human activity. That it is a natural evolution seems clear from the fact that it is the universal concomitant of progress. Capital and labor operate and should continue to exist under the laws of mutual dependence. Both labor and capital should be permitted the utmost freedom of liberty and action, limited only by regard by each for the other and for the safety and welfare of the state."

Then it thus defines the trust and its working:

"Interpreting combinations of capital to be the gathering together under one management of the collective contributions of many for strictly business purposes, involving economy in the several stages which result in the final distribution of the product to the consumer, we define the trust to be an aggregation brought about for the purpose of operating against the natural law of supply and demand, destroying competition by combination and unfair methods in order to secure control of both product and market, or permitting competition to exist only colorably and to the extent of refuting the charge of absolute monopoly. The one moves with the natural law; the other is designed to and does operate against the natural law."

A COGENT PRESENTATION.

The New York Journal of Commerce, the oldest and most authoritative exponent of conservative New York, in its issue for March 22, 1899, editorially said, speaking of the trust movement:

"The change is the most stupendous revolution ever accomplished in the history of the world's industrial growth. Its suddenness is as remarkable as its magnitude. It has come with none of the careful deliberation that usually attends the investment of great aggregations of capital. It has been guided by no precedent experience. It is no gradual result of a natural evolution. * * * It is a reversal of all that economists have accepted as fundamental axioms of trade. It is an undeliberated revolt against the most essential force in the regulation of production, distribution and values—the natural law of competition. It amounts to a complete disruption of the relations between the industrial forces and classes of society. It is an extinguishment of the voluntary exchanges between the producing and merchanting interests and the creation of one exclusive producing organization for each industry to which all other material interests must yield subjection. Industry at large is organized into a system of feudalized corporations, each one of which enjoys absolute power within its special branch of production, while taken in the mass the system constitutes itself the supremest trade power in the nation. These innovations upon the fixed methods of industry, though fundamentally affecting the citizen's free access to the opportunities of industrialism, take little account of legislation, equally ignoring the law as it stands and as it may possibly be changed to meet the case. This headlong precipitancy has pursued its purpose almost without forethought, certainly with slight consideration for trade moralities or for the weightiest of human liberties and with little regard for the perils of public order which the outworkings of the system are too liable to evoke.

"In advance of the event, it would not have been deemed possible that the most important class among our trained and responsible capitalists could at one such bound take a daring leap into the dark. The change is at best a stupendous experiment. * * * The change, however, is now a fixed fact. It places nearly our entire industrial system upon the monopolistic basis. That is a venture unparalleled in the history of material civilization; and not merely the manufacturing interest, but the still vaster interests thereon dependent, can but await the outcome with an expectancy that must grow more intense as the trial progresses."

It was the central tenet of Karl Marx, the socialist leader, that socialism would come as a strictly logical and inevitable evolution in nature, and that as infallibly as capitalism followed feudalism, so communism would follow capitalism. He predicted that under the capitalistic system things would constantly grow worse, and that centralization of capital would progress until all was ready for a peaceable transition from a capitalistic plutocracy to the ideal socialistic democracy. Supporters of the Marxian doctrine point to the trust movement as confirmation of Marx's prediction.

CHAPTER III.

THE COLLEGE AND THE TRUST.

Opinions of Economists—Matured Views from Leading Seats of Learning—The East and West Represented—Light Without Heat—The System of Unified Industries Analyzed—Papers from the Professors of Political Economy in Colleges and Universities.

CORNELL UNIVERSITY.

PROFESSOR JEREMIAH W. JENKS, AT THE CHICAGO TRUST CONFERENCE.

The first formal address before the Conference was delivered by Prof. J. W. Jenks, of the Chair of Political Economy in Cornell University. Besides having for some time made a special study of the question, Prof. Jenks was at the time of the Conference the economic expert, serving as a member of the United States Industrial Commission, created by Congress for the purpose of making an exhaustive official investigation of the trust problem in common with other industrial questions of the time. The address was entitled "Trust Problems" and is given here in full.

It is a calm and scholarly statement of the questions raised by the trust movement, rather than a discussion of those questions. The speaker said:

It has been well said that the first essential for the attainment of scientific knowledge is to get a definite outline of one's ignorance. It is certainly true that a long step has been taken toward the solution of a problem when the problem itself has been clearly stated. It may be of service, therefore, if the various questions which the present combinations of capital have raised, and toward the solution of which this conference may well contribute much, be brought together. I cannot expect to state clearly all of the questions raised by the growth of these industrial combinations, but I mention some of the most important ones as they have been called to my attention.

1. Competition versus Combination.—It has often been assumed that industrial combinations and monopolies have abolished compe-

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tition. On the other hand, managers of the most important industrial combinations invariably assert that they have much competition, and that the principle of competition is still active as long as anyone is legally free to set up a rival establishment. Many students of the question have asserted that among great industrial organizations competition is fiercer than among smaller establishments, and that combination does not abolish competition, but simply raises it to a higher plane. So long as there is not a state monopoly like that of the postoffice, or a legal monopoly like that established by a patent, there, of course, is at least potential competition. A rival may at least enter the lists. But a question on which many people are not yet clear is how far large combinations of capital possess a monopoly in fact, and how far these large industrial combinations are able to fix prices on the monopolistic principle of securing the highest net returns with little reference to what others charge, even though there may exist in the business some few other, but, relatively speaking, unimportant, establishments. How far can an establishment which sells only a high percentage, say 75 to 90 per cent of the total product, secure monopolistic gains? Is competition to be considered free when one establishment controls from 75 to 90 per cent of the entire product in the market?

2. Combinations of Capital and Combinations of Labor.—Some of the most active opponents to organized capital have been found in the ranks of organized labor. Some of the managers of industrial combinations assert that they have been forced to combine on account of the power of organized labor. They assert that the principle of combination is the same in both cases, and that labor organizations are no less tyrannous than are organizations of capital. Before legislation regarding combinations is undertaken the question should be clearly answered whether the two classes or organizations are the same in principle, and whether a law which restrains one will be held by the courts to restrain the other also.

3. Combinations Caused by Special Privileges.—It has been asserted lately that the "mother of all trusts is the customs tariff law." Many industries, however, in which great combinations exist have no protection of their products by the tariff. Managers of combinations which have been formed in protected industries assert that it has been the fierceness of home competition that has driven them into combination, and that if the tariff has been in any sense the cause of the combination it has been such only by developing the home industry to so great an extent that fierce competition was unavoidable. How large a proportion of the trusts does the protective tariff favor? Would a lowering of the tariff on protected industries in which industrial combinations have been formed destroy the combination, or would it merely lead to international combination such as already exists at least in one or two instances? Or would it, without breaking the combination, have the effect of lowering prices through foreign competition?

Other combinations of great power have been formed in industries protected by patents, and have secured monopolistic prices through the aid of the patent laws. Would it be in the interests of the public and would it be practicable so to amend our patent laws

as to remove from them the element of monopoly while still securing to the inventor by royalty or otherwise, according to different suggestions, a suitable reward for his inventive skill?

It has been frequently asserted that the success of many of the leading combinations of capital has been due to special favors granted them by discriminating rates on railroads. It is also asserted by some that the most successful combinations of the present day find it rather for their interest to observe strictly the interstate commerce law and to insist upon it that the railroads shall grant no discriminations to anyone, whereas it is for the interests of those small combinations that are still struggling for a firm foothold to secure such discrimination. It is believed by many people that railroad discriminations are still very frequent. Most important questions to be solved are, first, one of fact. To what extent and to whom do the railroads grant discriminating rates? And second, What further remedy can be found for such discrimination beyond that which now exists under the interstate commerce laws of the several states

4. Other Causes for the Formation of Combinations of Capital.—Managers of great capitalistic organizations usually assert that they have been driven into combination through the fierceness of competition; that without combination fair earnings on capital could not be realized, and that the trust, instead of being an aggressive combination, is really capital on the defensive. They also assert that it is only through the power that comes from a large aggregation of capital that we are able to meet foreign competition in foreign trade, and that without such combination our export trade could not be well developed, whereas with the development of foreign trade brought about through the combination of capital they are enabled to increase the output that the demand for labor and the profits of capital are both greatly increased. How far are these assertions true?

5. Overcapitalization.—Most of the newer combinations of capital have issued large amounts of stock, common and preferred, as well as of bonds. It is important, at least for the investor, to know the facts: How much of this capital is represented in plant at a fair valuation? How much in patents or brands? How much in good will in the proper sense of that word? How much is "water"? It is asserted by some that no harm is done the public even though the capitalization be much beyond the value of the plants; that the amount of capitalization has no effect on prices. Others, who believe that in these combinations an element of monopoly is found, think that an attempt to pay dividends on a large capitalization does increase prices. One class of persons asserts that capital stock should be limited to the amount of capital actually paid in in cash or in plants or goods taken at a conservative valuation. Another class believes that capitalization should be fixed by the probable earning capacity of an establishment. It is urged as an example that a newspaper with a plant valued at $100,000 may well earn large dividends on a million owing to the genius of the editor. Why, it is asked, not capitalize at a million? But, on the other hand, should we put into permanent securities a value depending on the power of one short-lived individual? Most people would readily grant that genius or even the

nerve that is shown in investing capital in new enterprises should meet with a fitting reward; but is it best to put the reward in that form?

Again, a street railway or a gas plant which costs $500,000 and whose franchise has been given it may pay good profits on one or two millions. Is it in the public interest that a public franchise be thus capitalized, put into securities in private hands so as to pay dividends on one or two millions, if the public are led thereby not to see the inflation or to make the nature of capitalization of each organization public, so that any investor can readily learn how large a proportion in every case is represented by plant, how much by patents or special brands, how much by good will and how much is nothing but "water"? Would such knowledge adequately protect the investor? Would such knowledge, by inviting competition, if real profits were made public, sufficiently protect the consumer by making monopolistic prices impossible? Are the interests of the stockholders and the interests of the consumers under present industrial conditions the same?

6. Effects of the Combinations on Prices.—It remains still to be fully established as to what the effect of these combinations are upon the prices of raw material and of the finished products. Are prices of raw materials held lower than is normal by the combination? Are the prices of the finished product lowered or made higher by combination? Is it possible that competition can force prices so low that by forcing into bankruptcy large numbers of establishments the interests of the public will be seriously injured? And, from the small output, prices even be put at length above combination rates? Is it in the interests of the laborers and the public at large that the fiercest competition possible in prices be encouraged?

Effects on Wages.—Despite the fact that the wage-earners themselves seem to be largely opposed to the industrial combinations, it is often asserted by the managers of the trust that they have increased the wages of the laboring men. Laborers themselves assert that these combinations throw many men out of employment. They believe also that combinations, by controlling practically all of the plants of any one industry, are in much better condition to resist the demands of labor and to resist any pressure that can be brought upon them by threats of strike. A strike in one or two or several establishments will not affect the combination materially, provided it can carry on production in the other establishments at the same time. The question is not yet settled whether under the system of combined capital the laborers, by making also a thorough combination covering the whole of any one industry, may not be even better able to deal with their employers than they are at the present time. If their organization covers only two or three plants they appear to be at a disadvantage. If their organization covers the entire industry, can the laborers and capitalists then deal as a unit in fixing wages over the whole territory? Through their agreements on wages can they more readily control the prices to consumers than has ever been the case before? The effects of combinations of capital at the present time upon both the rate of wages and the continuity of employment need to be established: and a fertile guide for not merely speculation but for

serious thought remains in the possibilities for the future of such an extension of labor unions that the employers and the employes throughout an entire industry can with little fear of successful opposition from the outside so control the industry that they can practically fix prices arbitrarily. The effects of such a double combination upon the consuming community at large need also further study.

Effects on Middlemen.—A third complaint against great capitalistic organizations comes from the middlemen, particularly from jobbers and wholesale dealers, who assert that the trusts are eliminating middlemen. Is this elimination of the middlemen, as well as the saving of labor, to be considered on the whole a gain to the community or a loss? If the trusts can deal directly with two or three large jobbers, can fix their prices and guarantee their profits, will there be enough saving in energy to the community to make up for the loss to those who are driven out of business temporarily? Will it also be possible within a comparatively short time for those persons whose business is thus ruined, as well for the laborers who are driven out of employment by the combinations, to secure employment elsewhere through the added demand that may come from the saving of cost and of labor merely? In other words, is the new form of organization a means of saving energy comparable with a new invention like the railroad or the steam engine, so that he may be fairly sure that though temporary suffering occurs there will be enough saving to lower prices and increase the demand for goods to so great an extent that the total demand for labor in the long run will be increased? Or, on the other hand, is the new form of organization a conspiracy of the few rich and powerful to oppose the many? Each view is taken by thousands.

7. Legislation.—If the state needs to interfere in this modern industrial movement, what form of legislation is wisest? Should it be destructive and attempt to prevent combination, or should it be regulative, permitting combination freely, but attempting so to control that evils to the public may be avoided? Of legislation aiming at destruction we have had many examples. The question still remains unsettled as to how far this legislation will prove effective. Many points have been overruled by the courts; many have been upheld; experience only will show the outcome there.

If legislation is to be chiefly regulative, will it be sufficient to secure publicity, or can something be done to prevent undue raising of prices? A second question of not less import is this: How far can such legislation be national under the general provisions of our Constitution regarding interstate commerce, and how far must the legislation be state? Could there be within a reasonable time national incorporation of great industries over which the federal government should have sole control? If so, would such control be advisable? Can congress now, under our present Constitution, secure full information for public use regarding the nature of the property and business of great corporations, and with frequent reports regarding the condition of the business, could it so inspect the books and records of such organization that public confidence in reports would be assured? If such publicity were sought through government would a special commission or bureau be needed for the administrative work?

Can any of the states, by any measures, effectively promote the interests of their citizens without laws that are substantially uniform among them all?

There are other problems suggested by the industrial combination. I have mentioned the most important ones to which my attention has been called. It is hoped that wise and conservative though bold action may in no long time solve some of them.

YALE UNIVERSITY.

PRESIDENT ARTHUR T. HADLEY.

In Scribner's Magazine for November, 1899, President Hadley has an article entitled, "The Formation and Control of Trusts." By courtesy of the author and of the publishers of the magaziue it is permitted to give here the following characterization of the paper:

After some reference to the magnitude and suddenness of the trust development the author says:

"Under such circumstances, the question of industrial consolidation becomes one of primary importance. Is this a transient movement or is it a manifestation of permanent tendencies? How far is it likely to go? To what limits, commercial or legal, is it subject? How are its evils to be avoided? Is it, as the socialists claim, a stepping-stone toward a new organization of industry under government authority? These are the questions which must be asked and answered."

Answering his own interrogatories President Hadley says for substance: There is obviously a natural limit to the number of these trust organizations—the number of industries which it is possible to unify being itself limited. In large part the motive behind this present movement is financial and mercenary rather than industrial and economic. Immediate profits for promoters resulting from marketing the new securities easily and at high prices form a more prominent feature "than the industrial motive of rendering the operations of the consolidated company efficient." * * * Those trusts which are the legitimate outcome of a natural economic tendency will endure, so that in any event the trust system involving practical monopolies of important industries is here to stay. "Consolidations which have been forced for selling securities and deceiving investors will cease. But there will always remain a considerable number which are formed for industrial rather than financial purposes; and these will probably be more important twenty years hence than to-day.

As the world moves on, the relative economy of large concerns cerns is as marked in England and Germany as here. The author throughout his paper unquestioningly assumes that the typical trust holds and operates a working monopoly of the industry it represents and if well managed will continue to enjoy this admakes itself more clearly known." The movement toward large convantage. He does not even refer to the possible deterrent effect of potential competition and merely alludes to the likelihood of actual competition springing up in the field occupied by the trust in case trust profits are phenomenal. On the other hand he considers the trust as permanently possessing discretionary power within wide limits to fix prices of commodities. "The manager no longer asks at what rate others are selling; he asks what the market will bear. To answer this question intelligently he must consider the future development of the industry as well as the present. The discretionary power which the absence of competition places in his hands constitutes a temptation to put prices up to a point injurious to the public and ruinous to the permanence of the consolidated company. Our past experience with industrial consolidations proves that very few men are capable of resisting this temptation or of exercising the wider power over business which the modern system places in their hands."

After mentioning the economic advantages of the trust system usually claimed by trust advocates. President Hadly says that the formidable-looking catalogue "represents possible rather than actual achievement; that where one company has secured these results, five, or perhaps ten, have failed to secure them; that for one combination which has earned large profits by public service many have tried to earn large profits by public disservice and have frequently ended in loss to themselves and to the public alike. But as long as it is possible for a well managed consolidation to do better work for all parties than could have been done under free competition, so long we may expect to see the movement in this direction continue. Where there is real economy to be achieved, investors [producers?] will try to take advantage of the opportunity. The attempt to prohibit them from doing so is likely to prove futile. There is no better evidence of the strength of the tendency toward consolidation than is furnished by the multitude of unenforced laws and decisions intended to prevent it." * * * As to laws prohibiting railway pools and traffic agreements, "the few which have been effective have done a great deal of harm and almost no good." * * * The same possibilities of economy which first showed themselves in railway combination and consolidation may be realized also in productive industry. There is every reason to believe that the tendency toward consolidation will be as inevitable in manufac-

turing as in transportation. As laws against railway pools led to railway consolidation, so laws against industrial and trade combinations will lead to trusts in the form of large single corporations. * * * There are practical limits to economy of consolidation more effective than legal ones, namely, the great difficulty, often the impossibility, of finding men capable of managing these great corporations. * * * To make matters move in the right direction at least three points must be kept in view: (1) Increased responsibility on the part of boards of directors. Speculation in the securities of their companies to the detriment of investors and consumers through artificial fluctuations in prices, etc., must cease. (2) A change in the legal character of the labor contract. It is difficult to outline just what form this change should take, but monopoly corporations should be required to render continuous service, and not be permitted to suspend that service because of avoidable strikes, etc. (3) An increased care in the imposition of high import duties. In all industries which are at all thoroughly monopolized, public safety will generally demand that duties be placed on a revenue rather than a protective basis. * * * But there is a still deeper question which many are asking, and to which not a few are giving a radical answer. Will such monopolies be long allowed to remain in the hands of private corporations at all? Is it not rather true that this consolidation is a step in the direction of state ownership of industrial enterprises? Is not a grave crisis at hand in which there will be decisive struggle between the forces of individualism and socialism, of property and numbers? * * * It is quite within the limits of possibility that many of these enterprises will pass into government ownership in the immediate future; but it is highly improbable that this tendency toward consolidation is increasing the dangers of a conflict between individuality and socialism. The net effect is to diminish these dangers by making the question of state ownership relatively unimportant to the public as a whole." * * * The author sums up his general conclusions in these words:

"We may sum up our general conclusions as follows: So far as the present tendency toward industrial consolidation is a financial movement for the sake of selling securities, it is likely to be short-lived. So far as it is an industrial movement to secure economy of operation and commercial policy, it is likely to be permanent. Attempts to stop this tendency by law will probably be as futile in the field of manufacture as they have been in that of transportation. The growth of these enterprises creates a trust in a sense which is not generally appreciated; it gives their managers a discretionary power to injure the public as well as to help it. The wise exercise of this trust cannot be directly provided

for by legal enactment; it must be the result of an educational process which can be furthered by widened conceptions of directors' responsibility. As this process of consolidation and of education goes on, private and public business tend to approach one another in character. The question of state ownership of industrial enterprises, instead of becoming an acute national issue, as so many now expect, will tend rather to become relatively unimportant, and may not improbably be removed altogether from the field of party politics."

TRADE COMBINATIONS GENERALLY.

In his standard work, "Economics" (G. P. Putnam's Sons, New York, 1897), on page 155 and following, President Hadley says:

"The simplest form of combination is an agreement to maintain rates where the several competitors promise not to reduce their prices below a scale fixed by common consent, with a view to giving producers a fair profit. But such an arrangement rarely proves effective. Each company is at the mercy of its agents. They will try to steal business from rival concerns by cutting rates. If they are allowed a commission on sales, they will divide it with the buyer; if they are not allowed such a commission they will find a hundred different ways, less obvious but hardly less effective, of rendering a rate agreement nugatory.

* * * "When competing concerns are thus at the mercy of their agents or of outsiders, a resort to closer forms of combination is inevitable. If it proves that an agreement to maintain rates is not enough, they will arrange a pool or division of traffic."

After mentioning the three kinds of pools: (1) A geographical division of the territory as by competing railroad or gas companies; (2) a division of traffic; (3) a division of the earnings from the combined traffic, President Hadley continues:

"Pools have not been regarded with favor by the law. In the United States they are treated as contracts in restraint of trade, and therefore void as a gambling contract would be void. The courts say that they are against public policy and will not aid in their enforcement. In England, the legal decisions are much more favorable to pools than in the United States; while in most parts of continental Europe they are accepted as matters of course; the governments themselves entering into pooling contracts with private companies with which they find themselves brought into competition in the management of state railroads or other industrial enterprises.

"In certain kinds of business, notably railroad transportation (in the United States), such pools or combinations are treated as misdemeanors and an attempt is made to punish their promoters by fine or imprisonment; but these efforts to do away with pools have conspicuously failed of their object. There are many ways of evading them. A joint accounting office may take the form of a clearing house established for the convenience of the public, and yet may serve all the purposes of a pool.

INDUSTRIAL CONSOLIDATIONS.

"The attempt to prohibit combination has proved futile, and has simply driven the competing concerns into closer consolidation. Had it been successful, it must either have retarded the development of modern business, and the utilization of modern methods requiring concentrated management of capital, or it must have subjected all of our large industries to constant fluctuations in their scale of prices, which would have been hardly less disastrous to the consumer than to the investor. But the advantages of industrial combination, when it comes to include all competitors, are frequently balanced by the evils of commercial combination. The economy connected with the use of concentrated capital is in some measure offset by the loss of that stimulus which competition alone seems able to give; and the resulting monopoly makes it uncertain whether the consumers will get the benefit of the economy which is actually obtained.

"If a monopoly is managed by inexperienced hands, the effort to put prices up is usually more noticeable than the effort to put expenses down. It seems so easy to make a profit at the expense of society, that managers are apt to neglect the more laborious method of making a profit by service to society. When business men have been all their lives accustomed to face immediate competition, they think that the combination of all competitors removes the only effectual restriction upon charges. But this is a short-sighted view of the matter which has wrecked most of the enterprises run on such a basis, and has made the average trade combination a means of hindering rather than helping its members. If the managers of a combination make it their chief concern to suppress competition rather than to realize economies in production, their policy toward trade rivals results in violation of commercial morality, if not of commercial law. Not content with obtaining unfair advantages in the way of discriminating rates for the transportation of its goods, the combination tries to exclude its rivals from their accustomed markets by methods of boycotting and intimidation, which, when they are used by trades unions, provoke fierce denunciation

from the same men who have been ready to practice them for their own advantage. It is interesting to see how combinations of capital and combinations of labor are subject to the same possibilities of abuse or mismanagement; and how the same violation of commercial right looks excusable to the party benefited, but monstrous to the party injured.

TRUST MONOPOLIES AND PRICES.

"It pays in the long run to bring rates down very near to the limits of actual cost if such reductions are followed by a large development of traffic. Where a monopoly is of such precarious character that it may be subjected to direct competition at almost any moment, this truth is sufficiently obvious. If a concern in this situation attempts to do a small business at high rates and make large temporary profit by such a policy, new capital will come into the business in the hope of securing the good-will and custom of the community by lower rates. High charges invite duplication of plant in all cases where such duplication is possible. * * * When permanent monopoly rights are guaranteed by law in all the competing districts, as on French railroads, we are apt to find a system of high charges which no nominal powers of public supervision prove adequate to control. * * * Among those trusts and other combinations that have had apparently a complete monopoly, a large number have made conspicuous failures, simply because they thought of high prices rather than large sales, and did not see that such a policy was suicidal. * * * If a large industrial combination uses the advantages given by concentration of capital to render labor more efficient and obtain a good profit at low rates, it has excellent chances of success. But if it makes such economy of labor a pretext instead of an object, and uses its monopoly to put prices up the danger of failure is wholly disproportionate to the chances of success. Such a policy may succeed for a few years, but sooner or later it seems bound to ruin those who adopt it.

CAN MONOPOLIES BE TRUSTED WITH CONTROL OF PRICES?

"Can we trust the managers of our large industrial enterprises to see this for themselves? Can we treat their mistakes as a self-correcting evil, and wait quietly for the time when they shall learn that their own permanent interests are best served by doing good public service? To this question it is impossible to return a general answer. Our decision in any particular case will depend partly upon the character of the business involved, partly upon the intelligence of those who

manage it, and most of all, perhaps, on our own habits of mind. If we are in the habit of looking at direct consequences and disregarding indirect ones, we shall see grounds for active public interference in almost all cases of industrial combination. The managers of a monopoly have it in their power to do a great deal of harm before they begin to feel the loss to themselves which arises from the adoption of a short-sighted policy. Even if the trouble corrects itself in the long run, a great many legitimate interests are sacrificed in the process. A railroad ultimately finds it suicidal to kill the local shippers who are its best permanent customers; but it is small comfort to the shippers to know that their deaths are to be slowly avenged by the operation of economic laws. The shippers demand some immediate control over the railroad agent; something which will prevent the evil in the beginning, instead of simply sufficing to prevent its indefinite repetition. They will be prone to adopt the socialistic solution of the problem and insist that the government should own the railroad, as the surest means of avoiding such abuses.

"But the man who is in the habit of looking at indirect consequences will see that the undiscriminating attempt to prevent evil often results in preventing an even greater amount of good. He will be prone to take the individualistic view of the matter. He will be disinclined, except as a last resort, to put the business into the hands of a government whose agents are almost always chosen on other grounds than those of industrial efficiency, and whose methods are much less flexible than those of a private corporation. He will be indisposed to see stringent regulations put in force until he is convinced that milder remedies are inadequate to protect the interests of the public as a whole.

METHODS OF REGULATING MONOPOLIES.

* * * "We have here to consider the merits of various methods of regulation of such industries, where government ownership proves undesirable or impracticable. These may be grouped under three heads: (1) Limitation of profits; (2) fixing of rates by public authority; (3) enforcement of far-sighted methods of management. The first of these methods looks much better than it really is. It is a favorite remedy of people who have had no practical experience of its working. They say it is very unjust for a monopoly to obtain a much higher dividend than would be possible under free competition; and they think that if we limit the dividend we shall remove the motive for extortion. In practice, the matter does not work in this way. Laws limiting profits, if obeyed, tend to keep rates high instead of low;

if evaded, they substitute a crooked method of distribution for a straight one. * * * Lord Farrer, whose long experience as Secretary of the Board of Trade, gave him unique opportunities for observing the effects of various methods of regulation practiced in England, says that limitation of profits does not cause reduction in rates; and that in trying to apply this principle Parliament has gone on a wrong tack, and involved the country in a "maze of absurdities."

* * * "If laws limiting profits are evaded instead of being obeyed, the effects, though different in kind, are equally undesirable. It is easy to reduce profits by extravagance in management, or by giving officials large salaries. This does no good to the consumer, and positive harm to the investor. Such laws may also be evaded by inflating the company's capital account; a practice known as stock-watering. If a corporation is allowed to divide all the money that it makes, there is no temptation to honest managers to create a fictitious capital account. But if the dividends are arbitrarily limited to 8 per cent when the company is really earning 12, the directors are tempted to pretend that there has been an investment of capital one and one-half times as great as has been actually expended. On the basis of this supposed investment they issue a stock dividend of 50 per cent. This is in common language 'water.' It does not represent money actually paid in. * * * If companies begin to issue fictitious capital there is no limit to such issue. A false capital account gives opportunity for every kind of stock speculation, and for all sorts of illegitimate methods of control by financial operators. Many attempts have been made to prohibit stock-watering; but as long as limitation of profits is attempted, there are enough honest men who are interested in the more defensible forms of stock-watering to render it almost impossible to detect and punish the indefensible ones. The evil from this source alone far outweighs any good that has ever been obtained by trying to limit dividends.

"Some charters, especially in England, try to combine limitation of profits with limitation of rates by providing that whenever the profit exceeds a specified percentage, the charges for services shall be correspondingly reduced. Others (like those of the French railroads) provide that all dividends above a certain figure shall be shared with the government. Neither of these systems has won its way into general recognition.

"By limiting rates instead of profits we have a somewhat more effective means of control. It has the merit of aiming at the right target, whether it hits it or not. Its chief difficulties are connected with the complexity of the conditions affecting modern traffic. It is seldom possible to say what any

specific piece of work really costs a large concern. The cost depends upon the amount of work done. The larger the investment of capital the more complete is this dependence of cost upon quantity. * * * In fact, the chief means which a manufacturer possesses for reducing costs is to increase the number of his sales so as to make it possible to lower this item of expense ["overhead charges," such as interest, insurance, taxes and general maintenance, which are about the same whether production be large or small]. This is the really critical element in price determination in all cases where large amounts of capital are involved; and it is precisely this which public authorities are unable to determine in advance, because it is essentially speculative in its character. Of course, the business men themselves have the same difficulty; but they are experimenting with their own capital, at their own risk, and in lines where they have the maximum technical knowledge; while the government authorities, dealing with the capital of others and the results of others' experience, find themselves sorely perplexed. * * * Where state ownership is impracticable and private enterprise short-sighted and extortionate, laws fixing rates may be the best available resource for the protection of the public; but their operation is, in almost all cases, rather unsatisfactory.

COLUMBIA UNIVERSITY.

PROFESSOR JAMES BATES CLARK.

[The following paper is substantially Prof. Clark's brief address before the Chicago Trust Conference, but subsequently somewhat elaborated at my request so as to give more fully the author's view as to remedial measures.—The Editor.]

I accept and use the popular definition of the term "trust." It is any corporation that is large enough to be menacing; it is a company that produces a large enough share of the entire output of some commodity to enable it to have some monopolistic power, as things now are, and thereafter to keep it. There is an intermediate type of trust which can be crushed out of existence far more easily by legislation than the trust which is the true corporation. You may get rid of unions of different companies, each of which retains its separate existence; but you will still have the trusts to deal with in the consolidated form. There are three things that are confounded in the public mind. They are, capitalization as such, centralization and monopoly. There is a striking difference between them; and the real line

between the parties that loosely call themselves Pro-Trust and Anti-Trust is drawn by the manner of treating centralization. I wish to record my conviction that centralization is a beneficent and permanent thing and that monopoly is evil and almost wholly evil. If we cannot have centralization without monopoly, we ought to forfeit some of the benefits of the concentration itself, as the price that we would pay for getting rid of the evil—monopoly. If we can have centralization without monopoly we should have it and thrive under it.

It is early to hope for much attention to the type of treatment that the trust will ultimately receive. I hazard the prediction that legislation will, in the end, draw the line of cleavage between centralization and monopoly and not between capital and centralization. We should not attack capital, in any case; and, to do justice to the anti-trust laws, they do not attack capital as such, they attack centralization. In the long run I venture to say that we shall find that the futility of these laws is the best thing about them. If we actually could crush civilization, for the sake of crushing the monopoly that is sometimes associated with it, we should do ourselves an amount of harm that we should regret indefinitely in the years that are to come. Do you suppose that, in the fierce competition now begun between America and other countries for the trade of the East, do you suppose that in the fiercer competition that will follow between America and Europe on the one hand, and the whole East on the other, for the trade of the world, we can afford to sacrifice the advantage that comes from making things in great establishments? You may say we can, but practically we cannot if we are to enjoy the benefits that come from economic leadership.

In this competition for the trade of the world, I want my country to come uppermost; and there is only one way in which it can do it without sacrificing its citizens. That is, by developing to the utmost its producing power.

There is competing power in cheap labor; but there is a better kind of competing power in efficient labor—in work that produces much because it is organized and supplied with the best tools. The coming struggle is between the competing power residing here and based upon productive energy, and the competing power residing in the East and based upon poverty. It is machines and big mills against "pauper labor;" and the power that is based upon energy will be the one that will survive.

Is it possible for us to retain our centralization and suppress the evil of monopoly? I must question the wisdom of trying in this brief space to give the reasons for believing that it is so. I rely upon the lapse of time to produce conviction;

and fortunately the lapse of time will not have to be great. Why is it almost an open question now whether trusts do or do not raise prices? Why is it the fact that they do not raise them as much as we once thought they would? Is it a benevolent impulse that restrains them? Are they filled with the enthusiasm of humanity? Are they a lambiike people who on no account would harm the consumer? Have they conscientious scruples against accumulating property and making large dividends? They don't raise prices to still higher levels because they cannot; and why this is the case the public doesn't exactly know. That they cannot raise prices beyond certain limits appears in the records of price quotations since trusts began. They can do it somewhat, but why not more? There is an explanation; and it lies in the power of what is now termed "potential competition;" it is the fact that high prices will call new establishments into existence, that forestalls and prevents any great raising of prices. The man who can build a mill if he will and who will if the inducement is great, who is already the potential competitor, suppresses high prices in advance. The producer who is not now in the field but will instantly enter it if prices are raised is the protector of the public.

In lucid intervals, in which it is customary for the managers of trusts to tell the truth to the people, this is one of the things which they invariably tell—the power they are afraid of resides in the potential competitor. This is, however, by no means the restrainer of prices it ought to be, or that it easily can be. That it is powerful, far beyond the imagination of those who looked upon the early development of trusts, is perfectly evident from the narrow limits within which prices have been raised. The foreign competitor, kept out by the tariff, is a potential competitor who may be made to become an actual one. I am not one of those harmless theorists who propose to abolish the whole protective tariff, but I would use the utmost discrimination I could bring into the service to manipulate that tariff in such a way that it should not be a bulwark of trusts. I would open the way to the foreign competitor in those instances where the tariff is not in the least necessary for the industry as such, but is necessary for the trusts within the industry. The man whom the trust has scared off by its command of patents is a potential competitor, not an actual one. A very wise and careful change of our patent laws will make him a real power; and, while I have not now a moment to spend in describing what should be the change that would be wise and careful, I say that sooner or later the patent laws must be changed for this purpose—that of liberating competition while still stimulating invention.

There is another type of legislation more important than either of these and far more effectual; and in proportion to its value is the difficulty of it. If by reason of the difficulty my program should, at this early stage, be ruled out of court, I will wait with patience for the time when, by reason of the progress of events, it will make its way into the court again.

The special weapon of the trust is discrimination in prices. There are, of course, discriminations in railroad rates, a most important type of unequal and unfair dealing; but that subject has been sufficiently treated. Discrimination in the prices of trust-made articles is a point even more dangerous than the unequal railroad rates, and even more difficult to suppress. If a trust can come into my territory and sell goods at ruinous prices, while sustaining itself and making profits in another territory, it can crush me with ease; and by threatening to treat in the same way anyone else who may take my place, it may terrorize potential competitors into remaining inactive.

So long as the trust has such a power the influence of potential competition is far from being all that is needed for the protection of consumers and of the majority of laborers. Moreover, there are other kinds of discrimination that are resorted to by trusts for securing unfair advantages in the struggle with independent producers. There is the plan of reducing the price of one type of goods, such as a competitor makes, and keeping up the prices of numerous other types of goods which the trust makes. There is the "factor's agreement," with the clause that binds the merchant who handles trust-made goods to refuse to handle any others. Particularly efficient, oppressive, and, in spirit, illegal, is this last measure.

Can we prevent these things? If we must, we can; and it is clear that we must. It will require a federal law to do it effectively; and it will require an amendment of the constitution to open the way for the law. The law, when we get it, will be difficult of enforcement; but we must overcome that difficulty, for the alternative is something that we cannot tolerate—a regime of permanent monopoly. We must force the trusts to treat customers alike. We must put every one of these customers under what, in diplomacy, would be called a "most favored nation clause," and must make them give to customers everywhere prices as low as, for competing purposes, they may choose to make anywhere. If, then, to ruin me, a trust shall make prices that are below the cost of production, it must make the cut apply to its entire output. If it does that, it may be that I can hold out as long as can the great corporation. Its losses will exceed mine as much as does its capital and volume of production. We must destroy the power to boycott customers

for the offense of handling independent producers' goods. A fair field and no favor is what we must get for the competitor; and then, even before he enters the field, his latent power will restrain the trust and protect the public.

What are the possibilities of potential competition? Far more, as with more time, I could show, than it has yet accomplished, and enough to make sure that, though we shall have great corporations forever, we shall not have monopolies. With such legal ability as our country possesses, and with such moral energy as in this cause it is showing, we can sooner or later make and execute the laws that will give fuller efficiency to this force, which is already so powerful, and insure that happy combination, which I have faith to believe our country will secure, of a productive ability that will give us the command of the markets of the world, and justice, which will develop the manhood and insure the contentment of our citizens.

UNIVERSITY OF MICHIGAN.

PROFESSOR HENRY CARTER ADAMS before the Chicago Trust Conference.

I have been requested to undertake a statement of the questions that arise in the consideration of the trust problem. In doing this I can say nothing that is new, nor shall it be my aim to be exhaustive. It is possible, however, that questions which are familiar may present themselves in a new light when brought together in a single statement.

Whatever the trust problem may be, it has to do with business organization, and on this account the first question that suggests itself is one that pertains to the science of economics. We observe in almost every form of business that industrial power is concentrating itself, that organizations are growing in size, that individual and small enterprises are being crowded to the wall, and that the sphere of competition is constantly being narrowed. This tendency is opposed to the theory upon which our system of jurisprudence rests, and it is pertinent to inquire whether it is inherent in the nature of the industries that are thus tending toward consolidation, or whether its explanation is to be found in the peculiar conditions under which industry at the present time is carried on. This is a most important question, for if the tendency toward consolidation be natural, remedial legislation should address itself to the control of the industrial forces thus brought together. If, on the other hand, this tendency be artificial, the legislature, in dealing with the situation, must seek to restore those conditions under which individual enterprise may be able to maintain itself. Without undertaking the analysis of industrial conditions and motives which a consideration of this question involves, I shall state at once what seems to be the correct opinion upon this subject.

TWO CLASSES OF INDUSTRIES.

Industries are not all of the same kind. They do not all possess the same character. Some tend toward consolidation and combination, while others are well fitted by their character to continue a separate and competitive existence. The transportation industries are of the former class. The manufacturing industries are, speaking generally, of the latter class.

Railways by their very nature tend toward combinations and consolidation. The biscuit industry, the manufacture of nails, the refining of oil, on the other hand, are well fitted for individual management and administration. If these latter, like the former, show a tendency toward consolidation, the explanation will be found in the peculiar conditions under which they are carried on. Thus again, upon the threshhold of this discussion, do we discover the imperative necessity of industrial analysis as a guide to right policy and sound legislation. Before coming to the question of general policy, there is another question which will undoubtedly be made the subject of warm discussion by the convention. Are the combinations commonly called trusts advantageous or disadvantageous? Is the tendency toward consolidation one to be approved or disapproved? It is likely that this discussion will turn upon three points:- First, Does consolidation of manufacturing industries tend toward the reduction of cost? Second, Will manufacturing under trusts, by measuring the output to the current demand, tend to guard society from the evils of commercial panics and commercial depressions? And lastly, Is this new organization of industry in harmony with a democratic organization of society? Here again I must ask the privilege of expressing an opinion, as the time allotted this paper does not permit a full statement of the reasons upon which my opinion rests.

REDUCED COST AND REGULATED PRODUCTION.

It is common to say that increase in the size of manufacturing plant permits the production of commodities at less cost than would otherwise be the case. There is undoubtedly some truth in this statement. The development of machinery has gone hand in hand with the growth of factories, and as a result the product is furnished at a cheapened rate. But there is a limit to the application of this rule. Every manufacturing industry, considered from the point of view of production, has at any particular time a size which may be regarded as its normal size of maximum efficiency. This normal of maximum efficiency is determined by the extent to which division of labor and the use of machinery can be applied. To increase such an industry by one-half would not result in a decrease of the cost of manufacture, for it would occasion a less effective application of the principle of division of labor.

While, therefore, it is true that the concentration of capital and labor under a single direction is followed by economy up to a certain point, it is not true that combination and concentration beyond that point tend to reduce the cost of the production. He who accepts this statement of the case must conclude that manufacturing combina-

tions, I say nothing of other forms, contribute nothing to the reduction of the cost of manufacture beyond what would be contributed should each of the industries continue its independent competitive existence. This is a curt answer to a profound question, but it is believed to rest upon sound analysis and to lead to the conclusion that the motive to a trust organization of manufacturing industries is not found in a desire to benefit the public by the reduction of cost.

It is not so difficult to suggest the line of reasoning upon the second question submitted. The chief argument in favor of combination among producers is that by this means production will be measured to demand, and consequently there will be no overstocking of the market, no commercial depression and no commercial panics, I shall not undertake to argue this proposition, but content myself with a single comment. Opposed to this theory of commercial depressions stands the well-wrought theory of socialistic writers which rests upon the claim that a stocked market is due to an uneconomic distribution of values, and not to an overproduction of goods. It certainly is true that goods cannot be sold when the property in the goods, as also money with which to purchase them, is in the same hands. A steady market implies an equation between goods on the one hand and purchasing power in the hands of those for whom the goods are made on the other. You perceive at once the bearing of this line of reasoning upon the claim that combinations tend to steadiness of trade. An adjustment of the output to the current effective demand is of the utmost importance. It may be questioned, however, whether a yet further concentration of industrial power than that which now exists is the best means of attaining this result.

SOCIAL AND POLITICAL RESULTS OF TRUSTS.

In addition to these purely industrial considerations it is necessary to inquire respecting the general social and political results of trust organizations before one can accept them as a healthful tendency in modern life. It must be remembered that our industrial society rests upon English jurisprudence, that English jurisprudence acknowledges the individual as the center of all industrial activity, that it provides for him the institution of private property, holds him to strict accountability and assumes that competition between producers on the one hand and purchasers on the other hand is a guaranty of justice and equity in all individual conduct. Do trusts fit naturally into this theory of society? For the preservation of democracy there must be maintained a fair degree of equality in the social standing of citizens. Do trusts tend to such equality? For the normal workings of that industrial society which is the product of six centuries of history, the door of opportunity must not be closed. Do trusts tend to close the door of opportunity? For the realization of the American idea of government there must be a balance of power, and the interests that lie outside the government; on the other hand, do trusts tend to destroy this balance of power? I would not claim, without discussion, that the trust organization of society destroys reasonable equality, closes the door of industrial opportunity, or tends to disarrange that fine balance essential to the

successful workings of an automatic society; but I do assert that the questions here presented are debatable questions and that the burden of proof lies with the advocates of this new form of business organization.

ORIGIN AND CAUSES OF TRUSTS.

If the current tendency toward consolidation in manufacturing industries does not spring from the nature of the industry, and if the benefits accruing to the public from these consolidations are at least questionable, it is incumbent upon us next to inquire out of what conditions these modern industrial organizations have sprung. I shall venture but three suggestions in this connection. Doubtless many more will be presented as this convention proceeds in its deliberations.

The inequalities which exist in established schedules of railway rates, as also the proneness of railways to depart from published schedules in order to secure the business of large shippers, works toward the consolidation of manufacturing industries and commercial enterprises. It is not intended to say that maladministration on the part of railways is of itself responsible for present industrial tendencies. It is, however, true that in so far as railways discriminate in favor of large shippers they present a motive to shippers to become as large as possible. This is too familiar a fact to call for discussion. The truth is, that the business of transportation underlies all other businesses; it determines the conditions upon which other forms of industry are carried on, and by the manipulation of rate schedules tone, color and character can be given to industrial society at large. While the solution of the railway problem would not necessarily cause all trusts and combinations to disappear, its solution is essential for dealing wisely with the trust problem. No one can deny that inequitable railway charges and discriminations in railway rates are an important element in the conditions that foster commercial combinations.

In further explanation of the current tendency toward business combination on the part of industries that by their nature are not monopolistic, reference may be made to the fact that the commercial jurisdiction of modern business is much broader than the political jurisdiction of the governments whose protection they seek and by whom they should be controlled. The federal government has no authority over many of the questions raised by the study of trusts, while the state governments are confined in the exercise of their authority to their local jurisdictions.

LEGISLATION—FEDERAL AND STATE CONTROL.

Such a condition must result in confusion of laws, in uncertainty of procedure and in enabling the interstate enterprises which rest upon state foundations to become a law unto themselves, so far as the conduct of their affairs is concerned. Competition cannot work equitably under such conditions. Justice attends competition only when competitors stand on an equal footing. It is, therefore, no

occasion for surprise to one who is familiar with the present condition of state laws upon industrial affairs that small and localized industries should find themselves at a disadvantage in their struggle for existence with the great combinations. A national market has taken the place of the local market, but we still rely upon local law for its regulation and control. Uncertainty of law and harmony of procedure are as essential as uniform railway rates and absence of discrimination to restore those conditions in which competition can affect its normal and beneficent results.

We are thus carried by our analysis from the consideration of economic relations to the stupendous question of political organization and legislative procedure. He who believes in local government will not readily consent to the proposition that the federal congress should assert exclusive authority over commercial and industrial conditions. Nor, on the other hand, will he who appreciates the significance and the beneficent results of a world's market consent to the suggestion that the business transactions of a state concern should not extend beyond the borders of a state. Here is a problem for statesmen to contemplate, and it is possible before arriving at its solution that the constitutional relations between the local and the federal government will be subjected to modification. Without entering upon this phase of the subject, may I submit for consideration the following proposition: The true function of a central government in dealing with problems of internal economy is to determine the fundamental principles of legislation, while the true function of local government is to express those principles in the terms of local conditions and to administer the laws thus expressed. By this means harmony of action, at least, would be secured, and one of the conditions out of which industrial combinations spring will have been set aside.

My third suggestion in explanation of the persistence of combinations in industries which from their nature are subject to competition is found in the unsatisfactory condition of state laws of incorporation. This is a question that should be considered by a lawyer, but by the lawyer who is familiar with the industrial history of the English-speaking people. Originally a corporation created by the state was regarded as an arm of the state. Individuals were clothed with some degree of public authority because they undertook to perform what were regarded as public duties. The East India Company, which planted an empire, is an illustration of such a corporation.

WILLIAMS COLLEGE.

PROF. CHARLES J. BULLOCK.

[Contributed.]

The recent extraordinary movement in the direction of industrial consolidation is explicable, in part, by the unusually favorable conditions which the stock markets have afforded for floating the securities of almost any kind of corporate enterprise.

Even a casual examination of the financial papers suffices to show that it is recognized in all financial circles that overcapitalization has been the rule; and that the active demand of investors for corporate securities has given the promoters of our recent combinations the opportunity to market large quantities of stock that represent nothing but the "good-will" of the enterprises consolidated. Not only has the common stock of these companies often represented nothing but water, but also the bonds or preferred stock have been issued in amounts that largely exceed in many cases the cash selling price of the plants.

But, apart from the inducements which the stock markets have offered for the formation of these combinations, there is undeniably a strong tendency toward industrial centralization. This is due to the desire to avoid certain losses and wastes of competition, and to the hope of securing a monopoly of the industries in question. The economy resulting from production on a large scale is admitted by all economists; but it is a debatable question whether, outside of such industries as are natural monopolies, this economy continues to be realized up to the point where monopoly is reached. In other words, it is admitted that production on a large scale is an economical necessity, but it is not admitted that a monopoly has great advantage in the work of production over a large enterprise that is big enough to secure maximum efficiency of plant.

If some combinations have maintained for some years a practical monopoly in their respective industries, this fact may often be explained on the ground that discriminations in railway rates and accommodations furnished shippers have given the would-be monopolist an advantage over the independent producer. In other instances the control over middlemen and jobbers exercised by some large combinations may be one chief cause of strength. Other explanations of a similar nature may possibly be advanced.

For my own part I have been unable to come to a definite conclusion concerning the question of the permanence of the control which many of the combinations are now able to exercise over their respective industries; but I am inclined to believe that, while production on a large scale is going to continue, monopoly is not likely to continue outside of the field of natural monopolies, after some method is devised for doing away with the unfair and often illegal advantages which the largest combinations now enjoy. In some form or other, competition will be the controlling principle, except in those cases where natural monopolies are certain to prevail.

INSTITUTE OF SOCIAL ECONOMICS.

PROFESSOR GEORGE GUNTON.

Professor George Gunton, president of the Institute of Social Economics, New York, and editor of Gunton's Magazine, addressed the Chicago Trust Conference on "Trusts and the Public Welfare." The speaker practically confined himself to the presentation of abundant proofs that modern large-scale production by large corporations and with large capital is in the line of economic development and is serviceable to society. Following are extracts:

It must be remembered, first of all, that the trust, be it good or bad, is only one among a large number of experiments in industrial organization, which the progress of the last fifty years has evolved. One of the marked features of the economic development of the century is the radical change that has taken place in the character of competing units. Under the primitive hand labor method, the competing unit was the individual. With the development of factory methods, the individual, as a competing unit, was superseded by partnerships, because they could more economically employ the new methods. With the growth of invention, partnerships were superseded by corporations. With the growing completeness of machinery and magnitude of business, corporations grew larger and larger, until the corporation is now the prevailing form in the most advanced countries.

Nor is this limited to the capitalist side of industry. It is equally characteristic of the labor side. The competing unit in the labor market is no longer the individual laborer, but the group, the union. The factory system has made it impossible for individual laborers to be competitors, because it is impossible for them to make individual contracts. In all matters pertaining to wages, hours of labor, conditions of work, whether by piece or by the day, it is the group and not the individual that is considered. Each factory, and in most instances each industry, pays uniform wages, works the same hours, and has substantially the same conditions, and when they are altered for one they are altered for all. In short, the progress during the nineteenth century has irrevocably established the group as the competing unit; the union as the unit on the labor side, the corporation as the unit on the capital side.

It is not to be assumed, however, that large corporations are always wise, or good, or fair. They are born of the same spirit

and partake of the same attributes as the small business venders. Their main ambition is to make profits. It is the duty of the state, therefore, to see to it that the conditions shall be such as to make dishonesty, unfairness, oppressive dealing, difficult and as impossible as any other offenses against the welfare of the community. This cannot be accomplished, however, by the petty nagging and corruption-creating license-granting proposed by Mr. Bryan. The federal government if it acts at all should act in exactly the other direction. It should surround industrial enterprises with the maximum freedom and the maximum protection to all, and no uneconomic privilege to any.

To this end it might be well for Congress to enact a law empowering the government to grant national charters to corporations, which should give them the right to do business over the entire territory of the United States, against which no state should have the right to interfere. This would be economic, in that it would give the market of the entire country to every business enterprise. National charters could have the proper qualifications subjecting the corporations to a certain supervision and compelling annual reports to be made. Second, it might also be provided that companies using a public franchise, like railroads, should not be permitted to make uneconomic discriminations in their rates of traffic, that they should be subject to public accounting, and that all contracts with shippers should be accessible to all other shippers. The general influence of publicity and inspection by the national government, coupled with the corporation's protection in its right to do business throughout the United States, would tend to create a wholesome influence around corporate conduct. While affording corporations the full support of the national government in their business rights, it would free them from the petty uneconomic nagging of partisan legislation in the different states. It would carry out the true idea of protection—that the American market should be open to every American producer and that the interests of the laborers and the public be safeguarded by the national government; at the same time leaving the essential features of business to be determined by the free action of economic forces, which are more permanent, more sure and more equitable than the wisest statutory enactment would ever be.

Professor Gunton made scarcely any reference to the central monopoly feature of trusts, but, on the other hand, said: "The whole question which this conference is called to consider is, What is the influence of large corporations upon public welfare?"

In answer to a request for his views on the monopoly element in the trust system, he has furnished the editor the following:

THE QUESTION OF MONOPOLIES.

The idea that trusts are monopolies is doubtless a large element in the public agitation. It is important, however, not to be carried away by mere terms and loose statements. It is universally admitted that competition is indispensable to healthy industry. Monopoly is exclusive control that shuts out competition. Now, are there any such monopolies? I do not know of any established industry, outside of the United States postoffice, which is a monopoly; that is, has no competition. There have been several efforts to secure a monopoly, through combinations and corners, like the French Copper syndicate, and the Nail combination, both of which were ignominious failures. As a matter of fact, it cannot be said that we have any great corporations that possess a monopoly. The Standard Oil, Carnegie, Sugar, Western Union Telegraph and the railroad companies are among the largest of their kind, but none of them have a monopoly in their line of business.

Again, there are two kinds of monopolies; one created by law and special privileges and the other created by superior competitive power, i. e., selling better goods, or cheaper, than anybody else. Of the special-privilege kind of monopoly there is none in this country. A monopoly that is secured by superior rivalry does not necessarily bring with it any of the evils so much dreaded, because if actual competition slackens, through the superiority of one competitor, potential competition is ever present in such cases. That is to say, so long as the right and opportunity to enter the field and compete for the business is open, if the existing enterprise uses its power abnormally to raise the price so as to get fabulous profits, capital, which is ever waiting for bonanza opportunities, will enter the field and compel it to disgorge part of its profits by lowering the price or else to do what is the same thing, buy out the new competitor. The latter is often the more expensive way. Self-interest, when at all enlightened, dictates the policy of keeping the profits sufficiently low not to tempt rival concerns to enter into competition.

First, then, we have no monopolies in any proper sense of the term; second, even if we had there is no serious danger to public welfare if the monopoly is not the result of legal privileges which close the door to new capital and new competitors. Of such we have none except in the case of railroads and concerns which have franchise privileges, and these ought to be under government supervision as to charges and rates, compelling pub-

lic accounting and uniformity of charges to the same class of customers.

The present rise of prices is no criterion by which to judge the monopolistic effect of existing large corporations, either new or old, because prices have risen quite as much, and in many cases more, in industries where the competitors are most numerous, as in those where they are the fewest. Witness the immense rise in the price of live stock, raw cotton, iron ore, pig tin, etc., as compared with that of petroleum, sugar, telegraph and railroad rates. The test of monopolistic influences on prices can only be found in the tendency of well-established concerns, and the evidence everywhere is that in those concerns which are called the most monopolistic, like the sugar and oil trusts and railroads, the prices have most steadily fallen.

COMMENT.

One who was disposed to criticise this view would probably say something like this:

Professor Gunton first impliedly adopts an impossible definition of monopoly as the term is used in the trust debate, and then with entire accuracy declares monopoly thus defined to be impossible and non-existent. He discusses an absolute, theoretical or complete monopoly, while every student of economics and every man of affairs fully understands that in practice such a monopoly of any industry is like a perfect vacuum in physics, virtually impossible. Even Professor Gunton's unfortunate example of an absolute monopoly, the United States postal service, furnishes a striking illustration of the fallacy here involved. In fact, the postal department to-day encounters at the hands of the banks, the telegraph, the express and railroad companies more and keener competition than does the Standard Oil, the Sugar Trust or the Western Union. Take our Alaskan seal industry. This is a perfect example of the legal monopoly backed by the power of the United States government, yet foreign sealers compete both by land and sea. The form of monopoly which constitutes the central factor in our trust system is perfectly well known in the language both of business and of economic science as a virtual or practical monopoly. The qualifying word is usually omitted because unnecessary, just as vacuum, unquali-

fied, always means an approximate or virtual vacuum. Professor Gunton cites the Sugar Trust as being not a monopoly, yet when President Havemeyer, in testifying before the Lexow Committee, was asked whether his company controlled the price of refined sugar in this country, he replied, "We certainly do, up to the importing point." This constitutes a virtual monopoly—the only sort the people, the economists, the legislatures and the courts are talking about, and the only sort the trusts aim to get and hold. It will occur to Professor Gunton on reflection that if a trust could escape the merited or unmerited odium and the possible legal liabilities attaching to monopoly by simply pointing to some competition, however slight, in its field, it would infallibly see to it that such nominal competition was not lacking. Finally, the professor's virtual insistence that, even in the absence of present actual competition, monopoly is prevented by the possibility of future competition, is, of course, equivalent to saying that everywhere and always even a virtual capitalistic monopoly is impossible. This would seem to exhaust the possibilities of debate.

OBERLIN COLLEGE.

PROFESSOR T. N. CARVER.

[Contributed.]

The first thing that ought to be said with regard to the "trust" system is that it is simply a new name for an old thing. The essential principle involved in the trust system is older than the modern factory system itself, and may be said to be a feature of every sound industrial system. This principle is the adjustment of supply to demand by rational foresight rather than by irrational, uncontrolled competition.

Before the age of steam transportation and steam-driven machinery, markets were small. A few workmen in each neighborhood produced the goods for the supply of that neighborhood. They had no wider market and the neighborhood depended upon its own workmen for its supply of goods. Each neighborhood constituted a market. Under these conditions, it was comparatively easy for the producers of any article to know the condi-

tions of the market, to gauge the probable demand, and to calculate on the probable supply. But it would be a mistake to suppose that the workmen left the supply to take care of itself, regulated only by competition. The universal testimony is that always and everywhere, there was a mutual understanding among workmen and producers of manufactured products, not to produce in excess, nor to sell below a fair price.

The advent of steam destroyed all that. Steam transportation enlarged markets, so that one neighborhood could be supplied with products made half around the world. Steam-driven machinery enlarged production, so that most factories were compelled to find sale for their goods in distant neighborhoods. It was no longer so easy for the producer to know the exact conditions of the market, and it seemed impossible to adjust the demand to the supply. As a result, a period of reckless, unrestrained competition set in. Each producer began invading the territory of other producers, and the salesmen of competing establishments trampled on each other's heels in their efforts to outsell one another. This was an unnatural condition and could not last. Sooner or later there was certain to be a return to the older principle of rational adjustment of supply to demand. But under the new conditions, that principle had to be worked out on a different plan from the old one. Instead of a large number of neighborhood markets, we now have a world market for most of our manufactured products. So, instead of a neighborhood understanding among a few producers, we now have a world, or at least a national, organization of producers to control the supply. We call such organizations trusts.

Since such organizations are normal, and are following out an old principle, older than the modern industrial system, it is useless to contend against them. They are here to stay. If we have any quarrel at all, it must be with the modern transportation system, and the modern factory system which brought the trust system in their train.

This is not saying that trusts need no control. It is too soon yet for anyone to say confidently just how they are to be controlled, but one or two general propositions may be stated as a guide. In the first place, trusts contain possibilities in the way of economy of production and are therefore to be welcomed as readily as an improvement in machinery or any other improvement which increases the productive power of the country. In the second place, trusts, by their very size and influence, contain possibilities of evil in the way of discriminations and unfair devices against independent producers, besides vast power of political corruption.

If these things are true, manifestly our duty is not to destroy

trusts, even if we could, for we would thus deprive ourselves of their economic advantages; nor to let them go uncontrolled, for we should then retain all the evil possibilities; but to subject them to such control as will restrain and destroy their powers for evil, at the same time retaining their economic advantages in the way of economy of production. I do not know how this will be done, any more than I know just how an automobile ought to be constructed so as to get the most practical service out of it; but I am not yet willing that the world shall give up either problem in despair, for both are within the power of human ingenuity to solve.

DARTMOUTH COLLEGE.

PROFESSOR FRANK HAIGH DIXON.

[Contributed.]

The present "trust" problem in the United States concerns itself not with some peculiar form of organization, but with all monopolies or partial monopolies that temporarily at least are superior to the force of competition in the fixing of prices. They are but an expression of the force of self interest among business men, the culmination of a long and bitter struggle involving cut-throat competition, overproduction, and resultant depression, a depression intensified by the rapidly increasing use of large amounts of fixed capital.

These organizations will for many years to come, doubtless, take a prominent place in our industrial life, and their methods deserve careful study. Unquestioned benefits have resulted from co-operation of large industries under skillful management. Economies have been introduced into all stages of production and efficiency materially increased. Stability has been promoted in the business world, and the dangers of industrial disturbances due to unregulated competition minimized. That laborers have been thrown out of employment in many instances cannot be regarded as a final argument against the trust efficiently managed, for any process which lowers the ultimate cost of production must work to the benefit of all.

Any interference with this tendency toward consolidation should be regulative rather than destructive. The fixing of prices can be safely left in large part to the self-interest of the monopolies. Prices cannot be made so high as to force consumers to the use of substitutes, nor can they reach the point where competitors will arise attracted by the unusual profit. The ease with which large manufacturing plants can be diverted from

one kind of production to an allied line makes competition between the large industries possible and acts as a deterrent of the rise of price. For such regulation as seems at present necessary, we must look to the states rather than to Congress, for the power of the latter is limited to such products as become the subjects of interstate shipment. The most promising field for state interference is to be found in corporation accounting. If complete publicity of accounts were insisted upon in the case of all industrial corporations receiving charters from the states, many of the evils of privately controlled organizations would disappear of necessity and much groundless suspicion on the part of the misinformed be removed. Further regulation can be secured through the creation of state commissions clothed with powers sufficient to safeguard the people's interests. To them could be intrusted, if necessary, the determination of maximum rates and maximum dividends. Whether more vigorous interference that would lead to the destruction of the trusts or to their virtual absorption by the states will be necessary depends upon the policy adopted by the monopolies themselves. Such radical action cannot, however, be defended in the light of present conditions.

UNIVERSITY OF CHICAGO.

PROFESSOR JOHN GRAHAM BROOKS addressing the Liberal Club of Buffalo, Nov. 16, 1899.

The trust proper was in a very special sense of American origin. What we are now dealing with is not local in its beginnings, but has been slowly appearing for half a century wherever competition had brought about specific dangerous results. It is indeed a great aid to clearness if we see at once that all which is essential to the new combinations is in no sense new. Proudhon, in his "Economical Contradictions," written before 1846, discussed with extraordinary acuteness the phenomenon which now frightens us. The ablest defenders of trusts are now eager to distinguish between uses and abuses. Proudhon, in his attack upon competition, ridiculed the economists, Blanqui and Rossi, for their attempt to save an unrestrained competition by attempting to eliminate its abuses. The tendencies to check competition by organization in France about 1840 created much dismay. It had already grown clear that a complete let-alone policy was not workable among the Paris cab drivers, and the French publicist, M. Troplong, insisted that the necessity of controlling competition in this instance was likely to be almost a solitary exception. Yet, already an unfettered competition in the coal industry had, in certain parts of France, been found impossible

and organization had already begun. From that time to the present, anything like complete competition has been more and more restricted in hundreds of commercial centers in Europe. It would probably be safe to say that at the present moment in Europe there are 1,000 organizations formed for the primary object of correcting the abuses of competition. They are formed by the score in Germany. Austria and Hungary would not have anti-trust legislation if they were without the thing. What is extremely hopeful from this European experience is that legislation which forces a very strict responsibility upon directors and managers has deprived these aggregations of capital of those evils which alarm so many of our citizens.

The chief perplexity which the student of the trust must feel is in the undeveloped character of the movement which the new organization represents. The most searching tests of utility we cannot apply for the reason that no test is yet at hand. Do the new organizations raise prices or lower them? Mr. Bryan affirms that even if they lower the price, he would still oppose them as an evil. This view must, I think, be exceptional, but it is surely very vital to know the general bearing of these new forces upon prices. If the tendency be to lower them, a large part of the objections raised would disappear. Yet so obvious a requisite to trustworthy opinion is nowhere to be found. Violent impressions are everywhere at hand, but they are valueless for careful discussion. Now this discussion, if it is to help us, has to assume one momentous fact, viz., the pitiful lack of anything like adequate organization over large areas of industrial life. Several great primary industries are in a state so chaotic as to affront our intelligence. The truth is, that the extreme clumsiness of organization, if the whole group is considered, has thus far had no searching and adequate statement. One gets a hint of it when one sees at a single hotel in a small city five drummers competing against each other in selling the same product. I have heard one of the most successful business men in the East say: "If people generally knew how stupidly and wastefully much of the large business is carried on, we should become objects of ridicule."

I submit, that to the extent these charges are true, the time is at hand for some kind of wide, thorough and effective reorganization of business; that is, for that portion of business into which a reckless competition has brought so much confusion. Will anyone who sees these facts clearly doubt that the immense pressure of this necessity to check an unregulated fight is the real origin of the so-called trust? Many will, of course, fight it as they fought the partnership, as they fought the corporation, as they fought new machinery; and they will fight it with precisely the same results. The law can, of course, bother them; it can make friction and delay; it can, perhaps, drive them from one place to another, because the needs of a world market are beneath them and these tidal forces are far stronger than any regulation in the statute book. If any political party is green enough to propose outright to smash them, it will have a great deal more leisure to regret it than it will know what to do with. The real problem, immediate and imperious, is how to regulate and guide the new force that stands merely for the latest stages of industrial growth. But the abuses, what of them? That abuses run riot in this

movement and are full of danger no one questions. The one practical test before us is to save, if we may, the uses which these combinations bring, and subdue, if we can, their abuses. Are the trusts dangerous? Yes, if the abuses are too strong for us. If they can be brought under control, the trust will bring to us immense advantages. When competition in any industry has passed the danger line, the small concern or corporation is helpless to adapt production and distribution to market conditions. This has most fundamental importance for our theme. Fixed capital in the form of machinery has now so far developed that in many businesses seven months, at full speed, will fully stock the year's market. When the first flush of good business appears each concern drives at full pressure in order to get the utmost trade possible. The race becomes fierce and reckless among competing concerns until the market is overstocked and the old tragedy begins. Wages must be cut and men dropped and every wretched evil of long out-of-work periods is upon us. The small concern is, I say, helpless before this great danger. Combination on an adequate scale alone can meet it. It can steady prices; it can steady the whole market both for capital and for labor. This conscious and calculated control is the next momentous step toward a rational industrial life.

But the abuses are there. I will not deny their gravity, but I confidently believe that three steps may lead to the removal of whatever is most threatening in these evils. First, as complete a publicity as that to which the national banks must now submit. Second, the removal of every special tariff privilege. Third, the ending of special railway favors. The tariff is not the primary cause of trusts, but no disinterested man can deny that the tariff may lend dangerously unfair privileges. It is a purely artificial advantage to which no business has a shadow of right. As the grave evil of railway discriminations are part and parcel of that habitual secrecy which is the most deadly evil in the trust, I shall lay chief emphasis upon publicity as the most important of all remedies. Even the publicity which comes from wide and animated discussion is already producing quite tremendous results. It is at the present moment incomparably harder to float any sort of scheme because the underwriters have learned their lesson. The bankers will no longer lend unless the basis of the new organization can be sworn to be secure. Add to this, at the earliest possible date, the same sort of legal sanction for publicity that is now secured under the English law, and dangers like that of overcapitalization will be reduced to a minimum.

We must assume in all clear discussion that the larger part of these ventures will speedily enough come to naught. The speculative element is so great that they will not stand the tests of the least severe experience. Several trusts have already failed and been reorganized two and three times, repeating again our railway history. As the present boom passes away, the real test will appear of safe and cautious reorganization. We can then first judge the real strength of this movement. The immediate hope is that no movement ever held such promise of wide and thorough popular agitation. General economic training always tells if it turns upon concrete events that have magnitude enough to stir the feelings of the imagination.

This the trust movement does on a great scale. There is no blinking at the fact, competition has at last crowded us to the very edge of the most formidable industrial issues we have ever faced. Is the state eventually to take these monster combinations or are we to continue them in private hands? If the chief abuses cannot be eliminated from private control; if politics is still exploited for personal gain; if city councils and state legislatures continue to be bought and sold as the interests of the trust may dictate, then state control in its most dangerous form will be thrust upon the American people all too soon.

BUREAU OF ECONOMIC RESEARCH.

PROFESSOR EDWARD W. BEMIS.

In many lines the tendency is for competition to become so keen as to leave no margin for interest on the necessary capital. But for their abuses the trusts might be looked upon with favor; but these abuses are serious: (1) They usually raise prices or prevent as rapid a fall as ordinary competitive conditions would secure. (2) The charge is well proven against them of over-capitalization and consequent deception of investors and the public as to the amount of their exorbitant charges and as to their prospects for a continuance of high profits. (3) Much might be written of how the trust often clubs competitors until it drives them from the field. An ordinary competitive business has similar tendencies, it may be, but it is the trust which boldly approaches a would-be rival and declares that it will sell goods below cost until it ruins him unless he will join the great combine. (4) Most ominous of all is the danger in the trust to political purity and personal liberty. Whether we like it or not we are destined to see vigorous efforts of our law-making bodies to regulate trusts as they have already tried to regulate city monopolies of light, heat and transportation. The latter effort has thus far had its most visible result in many cities in raising the price of the alderman and the legislator. It is to be feared that this and some malodorous events in the United States Senate are but a forecast of what awaits us in any really serious attempt to control the trust. The support of the trust is so necessary to the bar and the press, its donations so eagerly desired by the university, the library and the hospital, that freedom of speech is already endangered.

REMEDIES.

And what is to be done about it?

I. The trust may be left alone, on the theory that it will soon go to pieces, or that the abuses will correct themselves. This seems hardly warranted by history thus far.

II. To "smash the trust," even if practicable, which may be doubted, would deprive society of mighty possibilities for good. The evils of industrial evolution are never solved by going backward.

III. Various methods of control of the trust may be adopted. Professor Jenks, for example, urges that stock exchanges should not be allowed to list any of the securities of the capitalistic monopolies without publishing most complete and sworn returns of the cost of construction and of the production of goods, capitalization, etc. This suggestion is admirable so far as it goes.

IV. Observing that England, under free trade, has witnessed a less rapid development of trusts than have we, and noticing further how the tariff has been perverted in many instances in America and Germany so as to protect combinations in exorbitant charges at home while they ship goods at reasonable prices elsewhere, we may demand, with Senator Pettigrew, the abolition of the tariff on all specific articles which Congress shall decide to be controlled by trusts. Although this remedy would not reach many trusts, like oil or anthracite coal, it would be very effective in many cases. Mr. Havemeyer's recent attack upon the tariff as the friend of trusts will be recalled.

V. Railroad discriminations, which are already contrary to law, are everywhere recognized as a powerful and unjust factor in the development of monoplies of large capital. The Interstate Commerce Commission, in its last report, declares: "There is probably no one thing to-day which does so much to force out the small operator and to build up those trusts and monopolies against which law and public opinion alike beat in vain as discrimination in freight rates." This railroad problem is so serious that it will soon attract an attention that has never hitherto been given to it. Unless all signs fail, the time is coming when public regulation of railroads will give way to public ownership and operation, as has been the case recently in Switzerland. The railroads regulate their regulators. They insidiously weaken or control commissions. The independent shipper, the average business man, is likely ere long to recognize that the door to the trust problem lies in a solution of the railroad question.

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STATE SOCIALISM.

VI. There is an increased number, though still a minority, of very intelligent people, who believe that the only way ultimately of treating the trust adequately is for all to join it, by public ownership and operation of oil refineries, match factories, anthracite coal fields, distributing depots, etc., etc., just as in a somewhat indirect manner the people own many sugar refineries in the great province of Queensland, Australia. Prof. Bemis adds that while he finds himself in growing sympathy with such a solution, it seems still only a remote possibility. The people must first become habituated to public operation on a civil service reform basis, of city monoplies, the railroad, telegraph and express business, before they can ever widely undertake forms of business now absorbed by the trust.

VII. There is no quick and royal road to the settlement of the trust question. Even Henry D. Lloyd, whose book on this subject is known the country over, when asked by a recent Congressional committee for a bill dealing with the trust problem, replied that he had no legislation as yet to propose. The trust problem, like the slavery question, will take a generation or more to settle, and like the slavery question will entail endless trouble unless approached intelligently and with deep, conscientious devotion to the public weal.

UNIVERSITY OF WISCONSIN.

PROFESSOR RICHARD T. ELY.

[Contributed.]

Through the courtesy of Prof. Richard T. Ely, the well-known authority on economic questions, relating especially to monopolies, state and municipal ownership, and allied topics, Mr. George Ray Wicker of the University of Wisconsin furnishes for this work the following characterization of Prof. Ely's forthcoming volume, entitled "Monopolies and Trusts":

The whole discussion is probably the most complefe and searching to be found. The first chapter contains an exhaustive critical analysis of the concept of monopoly, tracing the idea in the theory of economics from Senior to the writers of the present day, and bringing order out of the chaos of thought that surrounds the word in current economic, legal and popular discussions. Dr. Ely believes that the characteristic feature of monop-

oly is the absence of competition, and the consequent ability to control price. He expressly denies that scarcity creates monopoly, reminding the reader that if monopoly could be thus produced all economic goods would be monopolized, since their value is due to scarcity. Land, in the view of the author, is not a monopoly, nor are the common surplus gains, as claimed by some writers, to be regarded as monopoly gains. The author's very complete analysis of the idea of monopoly lends especial value to his definition. "Monopoly," in the language of the book, "means that substantial unity of action on the part of one or more persons engaged in some line of business, which gives exclusive control more particularly, although not solely, with respect to price."

The second chapter treats of the classification and causes of monopolies. The most important classification, for scientific purposes, is that based upon the source of power or the cause. The author, from a commendable desire to avoid even the appearance of argument by epithet, has abandoned the term "artificial," formerly used to name one of these classes, substituting therefor the word "social." The other main class is that of "natural" monopolies. These latter, as is known to readers of his former works, are defined as resting back upon natural arrangements, as distinguished from social arrangements; the word natural being given a well-accepted connotation to signify that they have an origin apart from man's will and not infrequently in opposition to it. Social monopolies, on the other hand, arise from social arrangements, and express the will of society as a whole, through government, or of a section of society strong enough to impose its will upon society. The complete classification follows:

A. Social.
   I. General welfare monopolies.
      1. Patents.
      2. Copyrights.
      3. Public consumption monopolies.
      4. Trademarks.
      5. Fiscal monopolies.
   II. Special privilege monopolies.
      1. Based on public favoritism.
      2. Based on private favoritism.

B. Natural.
   I. Those arising from a limited supply of raw material.
   II. Those arising from properties inherent in the business.
   III. Those arising from secrecy.

Several other classifications are given by the author with the purpose of further clearing the field and arriving at a fundamental understanding of the phenomena under discussion.

The author, in his third chapter, treats of the "Law of Monopoly Price," which he states as follows: "Other things being equal, the higher the general well-being, and the more readily wealth is expended, the higher will be the monopoly price." Considerable space is devoted to showing that, whereas the tendency of competition, in proportion to its completeness, is to produce uniformity of price from time to time, from place to place, from class to class, and from individual to individual, the tendency of monopoly is precisely the reverse, diversity in the absence of external pressure extending to the prices asked by monopolists from different social classes. This treatment is something new, I believe, in economic literature. Other points interestingly treated in the same chapter are the fixing of the "revenue point," the effect of various methods of taxation upon monopolies, the effect of purchasers' monopolies upon supply, the influence of surrogates or substitutes, and also of fashion or fad upon monopoly prices, and the bookkeeping of monopoly gains.

Chapter IV, treating of "The Limits of Monopoly and the Permanency of Competition," is particularly interesting for its clear distinction between the fields of competition and of monopoly in modern industry. It is worthy of special remark that the author, independently of the French writer, M. de Rousiers, has come to a similar conclusion—that very many so-called monopolies are really not inherently so at all, but are only adjunct monopolies, drawing monopoly gains from their collusion with natural monopolies. The writer, though disclaiming any ambition or power to prophesy, asserts distinctly his opinion that there does not now exist in the industrial field anything which would compel the socialistic conclusion that all competition is self-destroying. In other words, he believes in the possibility of a permanent dualism of competition and co-operation in the industrial world.

Chapter V treats of the "Concentration of Production and Trusts." Under this caption the author deals with the phenomena of large-scale capitalistic production, and the vast industrial combinations which have been so noticeable, particularly in America, within the last twelve or fifteen years. Here, again, the author asserts that there is a field in which competition is an inherent and natural characteristic, though he admits that this field is smaller than extreme individualists have been wont to assume. He denies the existence or the possibility of monop-

oly arising solely from aggregation or capital or from such aggregation aided by superior business acumen in management, and claims that businesses of this sort, even when they present many of the features of monopoly, are really but parasitic growths, whose extra competitive gains must disappear with their removal from the support of the true monopoly to which they are attached. At any rate, they will always be explicable upon some other basis than that the competitive field tends to extinction. After a careful study of characteristic cases of concentration of business, the author shows that there are certain large fields of industry, notably agriculture, in which concentration has not marked the past, and in which there is no evidence that such concentration will be more marked in the future. And yet, the author believes that the tendency has been very general toward a raising of both the minimum and the maximum points of efficiency of the business unit.

Chapter V paves the way for the discussion of the evils of monopoly and of the remedies for them as contained in the last chapter. The author finds that there are really before the American people to-day three problems, that of monopoly, that of large-scale production, and that of centralization of wealth. After a discussion of the evils resulting from monopoly, and of certain suggested plans for their treatment, which he is unable to approve, he concludes with positive plans, which in his judgment intelligent social activity will adopt. These plans include public ownership and public management of natural monopolies, except those which depend upon the scarcity of raw material, in which case he recommends public ownership with possibly private management. Other suggestions are for educational progress through conscious social effort, taxation of bequests, etc. He would have no laws aimed directly against large-scale production or industrial combination itself, but only such laws as would regulate great private corporations for the protection of purchasers, of employes, and of the public at large. Throughout the work, while the scientific and unbiased standpoint is everywhere evident, there is nevertheless an underlying feeling that the final criterion of judgment must be the public welfare.

One view: The monopoly-trust system is an accomplished revolution, and therefore irreversible. The other view: The monopoly-trust system is simply an insurrection against both civil and economic law, to be suppressed like any other insurrection.

MR. ROCKEFELLER'S POSITION

John D. Rockefeller, president of the Standard Oil Company, in a written statement submitted to the Industrial Commission, Jan. 10, 1900, thus summarized his views concerning trusts:

"It is too late to argue about the advantage of industrial combinations. Their chief advantages are: 1. Command of necessary capital. 2. Extension of limits of business. 3. Increase of number of persons interested in the business. 4. Economy in the business. 5. Improvements and economies which are derived from knowledge of many interested persons of wide experience. 6. Power to give the public improved products at less prices and still make a profit for stockholders. 7. Permanent work and good wages for laborers." To control trusts Mr. Rockefeller suggested federal legislation under which corporations may be created and regulated if that be possible. In lieu thereof he recommended state legislation, as nearly uniform as possible, encouraging combinations of persons and capital for the purpose of carrying on industries, but permitting state supervision, not of a character to hamper industries, but sufficient to prevent frauds upon the public.

The other view: As shown in preceding pages (60 to 80) all the economic advantages named by Mr. Rockefeller are perfectly attainable without resorting to monopoly, yet monopoly and not economy is the spinal column of every typical trust—like the Standard, for example. As President Hadley of Yale puts it, "a trust is an organization which makes increased economy of production a pretext for securing a monopoly of the market." As to Mr. Rockefeller's remedial suggestions: 1. Not one state would consent to his proposed transfer to the federal government of jurisdiction over the chartering of industrial corporations. 2. Concerning state supervision sufficient to "prevent frauds upon the public," the central fraud practiced upon the public by the trust system consists of, or grows from, the trust's capitalistic and uneconomic monopoly. Imagine the state of New Jersey, by which the Standard Oil Company, in common with ninety-five per cent. of all trusts, is chartered, being asked so to "supervise" the operations of that corporation as to prevent it from crushing competition and monopolizing the market. The trust is not a passing skin disease of the industrial world, to be treated with soothing lotions of regulation. It presents a malignant tumor called industrial monopoly, which simply requires the knife of judicial surgery. The courts of the country, both state and federal, acting under the common law, public policy and existing statutes are quite competent and evidently disposed, to apply this heroic and effective remedy, as often as test cases are supplied by the people, and that without injuring or hampering legitimate, non-monopolistic industrial combinations.

CHAPTER IV.

THE CHICAGO TRUST CONFERENCE.

The National Conference on Trusts and Other Trade Combinations, held in Chicago from September 12 to 16, 1899, proved to be a notable and very useful event. It was called together at the instance of the Civic Federation, a voluntary association of public-spirited citizens of Chicago. It consisted of some four hundred delegates, mainly appointed by the governors of about thirty states. Nearly all societies of national scope and mainly interested in economic and sociological questions, were specially represented by delegations. By invitation a number of the best-known professors of political economy connected with American universities were present, and several presented papers which received the close attention of the conference and the gathered audiences. Among these were Professors Clark, of Columbia; Jenks, of Cornell; Adams, of Ann Arbor; Ely, of the University of Wisconsin; Folwell, of the University of Minnesota; John Graham Brooks, lecturer at the University of Chicago, and Bemis, of the Bureau of Economic Research.

The central idea in summoning the conference was that it should be wholly non-partisan in its make-up and spirit and wholly educational in its purpose. This was happily carried out in practice. No resolutions were adopted and no addresses to the country formulated, for this would have been wholly foreign to the plan of the gathering. While the debates were earnest and developed wide divergence of view among delegates, excellent temper prevailed, good manners ruled, and at the close it was apparent that most of the delegates were returning home having

more respect for opposing opinions and at least a suspicion that there were two sides to the trust question.

There was no well-defined alignment of delegates as champions and enemies of trusts. While both extremes were represented, all shades and grades of intermediate opinion were in evidence. It happened many times that prominent speakers would be well advanced in an address before one could decide where they were going to land. A rough attempt at classification of the delegates according to their attitude on the central theme would perhaps result thus: First, a group coming mainly from the West and South, and for whom Mr. Wooten of Texas and Hon. W. J. Bryan of Nebraska served as eloquent spokesmen. These came and went in the firm conviction that the combination for doing away with competition, and the great corporation which aims at practical monopoly of an entire industry, commonly called a "trust," are evil and only evil, "indefensible and intolerable," as Mr. Bryan put it, to be first restrained and then, as soon as practicable, annihilated. Second, at the other pole, was a group ably represented by W. Bourke Cockran and Prof. George Gunton, the New York editor-economist, whose contention is that the modern trust is distinctly an economic evolution, the logical and salutary outcome of past competition, to be welcomed and not assailed; that the trust has "come to stay," and that its extirpation, even if it were possible, would be undesirable and disastrous. This sentiment was approved by one or two delegates from the central states, like ex-Governor Foster, of Ohio. The exponents of this view agreed, however, in conceding that legislation, state and federal, should provide such regulations as experience might show to be necessary to protect the public against possible abuse of the new power. Third, between these two positive groups appeared to be the majority of the delegates, some of whom had not made up their own minds, some of whom apparently did not care to go on record in a definite way at so early a stage of the country's great debate; many of whom had and expressed grave apprehensions as to the outcome of the trust movement, while at a loss to discover any remedy, even if that movement should

prove wholly bad. In private conversation with delegates one discovered that the instinctive opposition to the monopolistic side of the trust phenomenon was more general and more pronounced than the public speaking indicated. For the most part the professors of political economy who addressed the conference confined themselves to stating the case, and pointing out both the benefits and the disadvantages of the new order, without balancing the account and pronouncing judgment for or against the trust. This will be observable in papers by Professors Jenks, Clark and Adams, the text of which is given herein.

One marked peculiarity in the public debate, noticeable at the time and clearly shown in the published addresses, was this: Most of the outspoken advocates of the trust system studiously avoided the use of the word monopoly and all reference to the fact of monopoly as either substantially attained or aimed at by the typical trust, and almost without exception they carried the impression that anti-trust sentiment is simply opposition to large corporations or large aggregations of capital as such. On the other hand, none of those who could fairly be regarded as exponents of the anti-trust sentiment, made any attack whatever on great industrial corporations as such or on the great concentrations of capital necessary to equip and run them. It was the monopoly feature and that alone which was the object of both denunciation and adverse argument. It is important to make this point clear, since, so far as the recent conference is evidence, it shows that no war is being made on capital or on corporations as such, by any class or section; that it is only when great capital and the corporate form of organization are employed as a means of systematically monopolizing or attempting to monopolize an industry or a branch of trade that they encounter resistance and rebuke. The peculiarity here pointed out obviously detracted from the value of the debate, for to a great extent the two sides were firing at a wholly different target. As one spectator put it, Mr. Bryan and his colleagues attacked private monopoly, which the typical trusts certainly represent, and which nobody dared openly defend;

while Mr. Cockran and Professor Gunton vigorously defended "large corporations" and their necessary concentrations of capital, which nobody accused. The attitude taken at the Conference by the representatives of workingmen showed pretty clearly that organized labor cannot be relied on to oppose trusts with any approach to unanimity.

That the conference has served to stir public thought, as few recent events have done, is evident enough. That it has wrought corresponding benefit is equally manifest. Among other things, it has developed the fact that no public question since the civil war of 1861 has taken so deep a hold upon all classes of our people in all sections of the Republic.

We have endeavored to reproduce herein every fresh or important thought on the trust question which the conference developed, but so far as possible without repetition. At a gathering where each principal speaker aims to cover the whole subject instead of specializing, much duplication of utterance is inevitable. No attempt is made to follow the order of addresses at the conference, but papers and extracts are grouped topically as far as practicable.

PRIVATE MONOPOLY INDEFENSIBLE.

Causes of the Trust System—Its Breeding Grounds in New Jersey and Delaware—Purposes of the Trust—Human Character More Important Than Dollars—The High-road to Aristocracy—Agriculture Under the Rule of Trusts—God-made Men Among Man-made Giants—Regulation and Suppression Demanded—A Remedial Plan Suggested.

HON. WILLIAM J. BRYAN, before the Chicago Trust Conference.

I come this morning to discuss in your presence a great question—a question of growing importance to the American people. This trust principle is not new, but it is manifesting itself in so many ways and the trusts have grown so rapidly that people now feel alarmed about trusts who did not feel alarmed three years ago. The trust question has grown in importance, because within two years more trusts have been organized, when we come to consider the capitalization and the magnitude of the interests involved, than were organized in all the previous history of the country, and the

people now come face to face with this question: Is the trust a blessing or a curse? If a curse, what remedy can be applied to the curse?

ALL PRIVATE MONOPOLY INTOLERABLE.

I start with the declaration that monopoly in private hands is indefensible from any standpoint and intolerable. I make no exceptions to the rule. I do not divide monopolies in private hands into good monopolies and bad monopolies. There is no good monopoly in private hands. There can be no good monopoly in private hands until the Almighty sends us angels to preside over us. There may be a despot who is better than another despot, but there is no good despotism. One trust may be less harmful than another. One trust magnate may be more benevolent than another, but there is no good monopoly in private hands, and I do not believe it is safe for society to permit any man or group of men to monopolize any article of merchandise or any branch of business.

What is the defense made of the monopoly? The defense of the monopoly is always placed on the ground that if you will allow people to control the market and fix the price they will be good to the people who purchase of them. The entire defense of the trusts rests upon a money argument. If the trust will sell to a man an article for a dollar less than the article will cost under other conditions, then in the opinion of some that proves a trust to be a good thing. In the first place I deny that under a monopoly the price will be reduced. In the second place, if under a monopoly the price is reduced the objections to a monoply from other standpoints far outweigh the financial advantage that the trust would bring. But I protest in the beginning against settling every question upon the dollar argument. I protest against the attempt to drag every question down to the low level of dollars and cents.

In 1859 Abraham Lincoln wrote a letter to some people in Boston, and in the course of the letter he said: "The Republican party believes in the man and the dollar, but in case of conflict it believes in the man before the dollar." In the early years of his administration he sent a message to Congress, and in that message he warned his countrymen against the approach of monarchy. And what was it that alarmed him? He said it was the attempt to put capital upon an equal footing with, if not above, labor in the structure of government, and in that attempt to put capital even upon an equal footing with labor in the structure of government he saw the approach of monarchy. Lincoln was right. Whenever you put capital upon an equal footing with labor, or above labor, in the structure of government you are on the road toward a government that rests not upon reason but upon force. Nothing is more important than that we shall in the beginning rightly understand the relation between money and man. Man is the creature of God and money is the creature of man. Money is made to be the servant of man—and I protest against all theories that enthrone money and debase mankind."

THE PURPOSES OF THE TRUSTS.

What is the purpose of the trust or the monopoly? For when I use the word trust I use it in the sense that the trust means monopoly. And what is the purpose of monopoly? If you want to find out you can do so from the speeches made by those who are connected with the trusts.

[Here Mr. Bryan quoted from an address delivered by Mr. Charles R. Flint, of New York City, in May, 1899. Mr. Flint has been prominently identified with the organization of several of the largest trusts.—Editor.]

In explaining the merits of the trust system Mr. Flint said: (1) "We thus secure the advantage of large aggregations of capital and ability. * * * Raw material bought in large quantities is secured at lower prices."

We see, then, what is the first advantage. One man to buy wool for all the woolen manufacturers! That means that every man who sells wool must sell it at the price fixed by this one purchaser in the United States. Thus the first thing is to lower the price of raw material. The great majority of the people are engaged in the production of raw material and in the purchase of finished products. It is but comparatively few who can stand at the head of syndicates and monopolies and secure the profits from them. Therefore, the first advantage of a monopoly is to lower the price of the raw material furnished by the people to that combination.

Mr. Flint next says: (2) "Those plants which are best equipped and most advantageously situated are run continuously and in preference to those less favored." The next thing is, after you have bought all the factories, to close some of them and turn out of employment the men who are engaged in them—and if you will go about over the country you will see where people have subscribed money to establish enterprises, and where these enterprises, having come under the control of the trusts, have been closed and stand now as silent monuments to the wisdom of the trust system. (3) "In case of local strikes and fires, the work goes on elsewhere, thus preventing serious loss." Do not the laboring men understand what that means? It means that if the people employed in one factory are not satisfied with the terms fixed by the employer and strike, they can close that factory and let the employes starve while they go on in other factories without loss to the manufacturers.

It means that when they have frozen out the striking employes in one factory and compelled them to come back to work at any price to secure bread for their wives and children they can provoke a strike somewhere else and freeze them out there, and when a branch of industry is entirely in the hands of one great monopoly, so that every skilled man in that industry has to go to the one man for employment, then that one man will fix wages as he pleases and the laboring men will share the suffering of the man who sells the raw material.

BRAINS NEED NOT APPLY.

(4) "There is no multiplication of the means of distribution and a better force of salesmen takes the place of a large number." I want to warn you that when the monopoly has absolute control,

brains will be at a discount, and relatives will be necessary to fill these positions. When there is competition every employer has to get a good man to meet competition, but when there is no competition anybody can sit in the office and receive letters and answer them when everybody has to write to the same house for anything he wants. There is no question about it. A trust, a monopoly, can lessen the cost of distribution. But when it does so society has no assurance that it will get any of the benefits from that reduction of cost in reduction of price. But you will take away the necessity for that skill, for that brains. You will take away the stimulus that has given to us the quickness, the alertness of the commercial traveler, and these men, these commercial evangelists who go from one part of the country to the other, carrying the merits of their respective goods, will not be needed, because when anybody wants them all he has to do is to write to the one man who has the things for sale, and say, 'What will you let me have it for to-day?'

(5) "Terms and conditions of sale become more uniform, and credit can be more safely granted." He cannot only fix the price of what he sells, but he can fix the terms upon which he sells. You can pay cash, or, if there is a discount, it is just so much discount, and you have to trust to that man's generosity and his decision upon what is fair when he is on one side and you on the other. I have read these only as some of the advantages which a great trust magnate thinks will come from the trust.

What is the first thing to be expected of a trust? That it will cut down expenses. What is the second? That it will raise prices. We have not had in this country a taste of a complete trust, a complete monopoly, and we cannot tell what will be the results of a complete monopoly by looking at the results that have followed the attempts to secure a monopoly. Pending such attempts the trusts have often lowered prices temporarily as a means of ridding themselves of remaining competitors. But when it has rid itself of competitors, what is going to be the result? My friends, all you have to know is human nature. God made men selfish. I do not mean to say He made a mistake when He did, because selfishness is merely the outgrowth of an instinct of self-preservation. It is the abnormal development of a man's desire to protect himself; but everybody who knows human nature knows how easy it is to develop that side of a man's being. Occasionally I find a man who says he is not selfish, but when I do I find a man who can prove it only by his own affidavit.

[Here the speaker illustrated the necessity of curbing the greed of great combinations by referring to the practice on Western farms of putting rings in the noses of swine. "So that while getting fat they may not destroy more than they are worth."] One of the great purposes of government is to put rings in the noses of hogs. I don't mean to say anything offensive, but we are all hoggish. In hours of temptation we are likely to trespass upon the rights of others.

I believe in self-government. Why? Because in their sober moments the people have helped to put rings in their own noses to protect others from themselves and themselves from others in hours

of temptation. And so I believe we must recognize human nature. We must recognize selfishness and we must so make our laws that people shall not be permitted to trespass upon the rights of others in their efforts to secure advantages for themselves. * * * And I believe the principle of monopoly finds its inspiration in the desire of men to secure by monopoly what they cannot secure in the open field of competition.

CAUSES OF TRUSTS—SILVER DEMONETIZATION, TARIFF, ETC.

I will not ask you all to agree with me, but we have not met here as a body of men who agreed. We have met here as a body of men who were seeking light and each ought to be willing to hear what every other has to say, and each of us should desire the triumph of that which is true more than the triumph of that which he thinks may be true.

Let me repeat that (1) the primary cause of these great combinations is the love of money and the desire to secure the fruits of monopoly; but I believe (2) that falling prices caused by a rising dollar have contributed to this desire and intensified it, because people with their plants, seeing the fall in prices and measuring the loss on investments, have looked about for some means by which they could protect themselves from this loss, and they have joined in combinations to hold up prices to protect their investments from a loss which would not have occurred but for the rise in the value of dollars and the fall in the level of prices.

(3) Another thing that, in my judgment, has aided monopoly is a high tariff. Nobody can dispute that a tariff law, an import duty, enables a trust to charge for its product the price of a similar foreign product plus the tariff.

Now some have suggested that to put everything on the free list that trusts make would destroy the trusts. I do not agree with this statement as it is made so broadly. I believe that the high tariff has been the means of extortion and that it has aided the trust to collect more than the trust otherwise could collect. But I do not believe you could destroy all trusts by putting all trust-made articles on the free list. Why? Because, if an article can be produced in this country as cheaply as it can be produced abroad the trust could exist without the benefit of any tariff, although it could not extort so much as it could with the tariff, and while some relief may come from modifications of the tariff, we cannot destroy monopoly until we lay the ax on the root of the tree and make monopoly impossible by law.

(4) It has been suggested that discrimination by railroads has aided the trusts. No question about it. If one man can secure from a railroad better rates than another man, he will be able to run the other man out of business. And there is no question that discrimination and favoritism secured by one corporation against another producer and a rival have been largely instrumental in enabling a desired monopoly to become practically a complete monopoly. Now that can be remedied by laws that will prevent this discrimination, but when we prevent the discrimination, when we place every

producer upon the same footing and absolutely prevent favoritism, monopoly may still exist. The remedy must go farther. It must be complete enough to prevent the organization of a monopoly.

NEW JERSEY AND DELAWARE CORPORATION LAW.

I do not believe the people of one state can rely upon the people of another state in this matter of corporate regulation, where a corporation organized in one state wishes to carry on business in other states. I might give you reasons, but I have here a letter that was sent out by a trust company of Delaware. It has an office in New York! and it is the most remarkable document on this subject that has ever fallen under my observation. It shows that in Delaware they adopted a law for the purpose of making Delaware more favorable to the trusts than New Jersey. The letter says:

"The State of Delaware has just adopted the most favorable of existing general corporation laws—one marking a forward step in the evolution of corporations. It does not encourage reckless incorporation, nor permit the existence of wild-cat companies, but it furnishes at the least expense ample rights to stockholders and reduces restrictions upon corporate action to the minimum.

"The enactment is not the result, as in the case of most states, of hesitating, halting, enacting, amending and repealing, but is a logical and systematic measure framed by a committee of able lawyers appointed by the legislature to examine the various statutes of the various states and prepare a bill which should embody the good and eliminate the the bad points of existing law. The law is based broadly upon that of the state of New Jersey and embraces all the beneficial provisions and safeguards found in the laws of that state. It is, however, in many respects, advanced far beyond New Jersey, and makes Delaware a much more attractive home for business corporations.

"In the following salient provisions the Delaware and New Jersey laws are substantially identical. 1. Any three persons may organize a corporation. 2. It may engage in any lawful business excepting banking. 3. Its existence may be perpetual or limited. 4. It may purchase and deal in real or personal property wherever situated, and to any desired amount. 5. It may be a mortgagee or a mortgagor. 6. It may conduct business anywhere in the world. 7. Stock may be issued for property purchased, and in Delaware for services rendered, and in the absence of fraud the judgment of the directors as to the value of such property or services is conclusive. 8. It may easily wind up its affairs and dissolve itself. 9. Its authorized capital stock need not be more than $2,000, and only $1,000 of this need be subscribed for. 10. The amount of capital stock which it may issue is unlimited. 11. It may file its certificate of incorporation and even begin business before any sum whatever is paid in. 12. It may have different classes of stocks, with different privileges or restrictions. 13. The charter may be easily amended. 14. Only one director need be a resident of Delaware. 15. Capital stock may be easily diminished or increased. 16. The corporation may be readily merged or consolidated into other corporations. 17. The incorporators may or may not limit the authority of the directors as to the liabilities."

ADVANTAGES IN DELAWARE.

And after giving us these points of similarity the letter proceeds as follows: "The Delaware law possesses the following advantages: 1. The original fee that we pay for incorporation is small—about three-quarters

of that of New Jersey. 2. The annual tax is small—one-half of that of New Jersey. Delaware is a small state and does not need very large revenue. 3. Stockholders and directors may hold their meetings wherever they please and need never meet in the state of Delaware. New Jersey stockholders must meet in that state. You see, it is a decided advantage over the New Jersey law in that respect. 4. The original stock and transfer books, which in a New Jersey corporation must be kept in the state, may be kept in or out of Delaware, in the discretion of the company. 5. The examination of the books by intermeddlers is much more difficult under the Delaware law than under the laws of any other state. 6. The liability of the stockholders is absolutely limited when the stock has once been issued for cash, property or services. 7. Stock may be issued in compensation for services rendered, and in the absence of fraud in the transaction the judgment of the directors as to the value of such services is conclusive. 8. For certain classes of corporations, as for instance, railroads, telegraph, cable, electric light, steam-heating power, gas-piping lines and sleeping car companies, the advantage is still more marked."

[I wish we had some way of knowing what the additional advantages are, after having read the ordinary advantages.] "9. The annual report of a Delaware corporation is required to give no secret or confidential information. 10. The certificate need not show nor need public record be in any way made of the amount of stock subscribed by any incorporator."

I have read this letter to show you that where a state can gain an advantage from the incorporation of these great aggregations of wealth, it is not safe to place the people of other states at the tender mercies of the people of such a state as may desire to secure its running expenses from the taxation of corporations organized to prey upon people outside—to show how impossible it is for us in one state to depend for protection upon the people in another state; and while, as I say, I believe the people of every state should have the power to create corporations and restrain and limit or annihilate, yet I believe no complete remedy can be found for the trust until the federal government, with a power sufficiently comprehensive to reach into every nook and corner of the country, shall lay its hands upon these trusts and declare that they shall no longer exist.

TRUST REMEDIES SUGGESTED.

Now what can be done to prevent the organization of a monopoly? I rather think we differ more in remedy than we do in our opinion of the trust. I venture to guess that few people will defend the trust as a principle, or a trust organization as a good thing, but I imagine our great difference will be as to remedy, and I want, for a moment, to discuss the remedy.

We have a dual form of government. We have a state government and a federal government, and while this dual form of government has its advantages, and to my mind advantages which can hardly be overestimated, yet it also has its disadvantages. When you prosecute a trust in the United States court it hides behind state's sovereignty, and when you prosecute it in the state court it rushes to cover under federal jurisdiction—and we have had some difficulty in applying a remedy.

I believe we ought to have remedies in both state and nation,

and that they should be concurrent remedies. I submit, not necessarily as the best plan, but as a plan, the following:

First, That the state has or should have the right to create whatever private corporations the people of the state think best.

Second, That each state has, or should have, the right to impose such limitations upon an outside corporation as the people of the state may think necessary for their own protection. That protects the rights of the people of the state to say, first, what they shall organize in their state as a corporation, and, second, what they shall permit as a corporation to come from other states and do business in their state.

Third, That the federal government has, or should have, the right to impose such restrictions as Congress may think necessary upon any corporation which does business outside of the state in which it is organized. In other words, I would preserve to the people of the state all the rights that they now have, and at the same time have Congress exercise a concurrent remedy, even to the point of prohibition, to supplement the state remedy. When the federal government licensed a corporation to do business outside of the state in which it was organized, it would merely permit it to do business in any state, under the conditions imposed by that state, in addition to the conditions imposed by the federal government. I would not take away from the people of the state, any right now existing, but I would have the federal government and the state government exercise the powers that may be necessary to annihilate the monopoly. And I believe it is possible to annihilate a monopoly, and when I hear gentlemen pessimistically destroying by their objections every suggested remedy, yet suggesting no other, I am reminded of those cheerful lines:

"Plunged in a gulf of dark despair,
Ye wretched sinners lie."

FORM OF FEDERAL ACTION.

As to the form which federal action shall take, this seems to me a complete method, but it may not meet your approval;

That Congress should pass a law providing (1) that no corporation organized in any state should do business outside of the state in which it is organized until it receives from some power created by Congress a license authorizing it to do business outside of its own state. (2) That such license should only issue upon these three conditions:

I. That the corporation so applying for a license to do business outside of the state where incorporated shall have no watered stock.

II. That there shall be thorough and regular publicity of all transactions and business of the company affecting the public welfare.

III. That the petitioning corporation shall neither have nor attempt to secure a monopoly of any branch of business or of any commodity. [Violation of any such requirement to work a revocation of license.]

As to the constitutionality of such a law my thought is that Congress should enact it and if it should be declared unconstitutional by the supreme court then I am in favor of so amending the federal constitution as to give Congress the power to destroy every trust in the country.

I may be mistaken, but as I have studied the subject it has seemed to me that this method of dealing with the trusts would prove an effective method; but if you once establish the system and require the license, then congress can from year to year add such new conditions as may be necessary for the protection of the public from the greed and avarice of great aggregations of wealth.

OVERCAPITALIZATION—WATERED STOCK.

As to watered stock I don't agree with those who say it is a matter entirely immaterial whether a corporation has water in its stock or not. It is true that in the long run—if you are able to run as long as the run is!—you may squeeze the water out of the stock, but during all that time the harm goes on; during all that time the trust demands the right to collect dividends upon capital represented by no money whatever. I do not believe any state should permit the organization of any corporation with a single drop of water in its stock. The farmer cannot inflate the value of his land by watering the value of that land. The merchant in the store cannot inflate the value of the goods upon his shelves. Why should the corporation be permitted to put out stock that represents no real value? There are instances in these trust organizations where the stock represents $4, yes as high as $12, of water to $1 of money. No man can defend stock that does not represent money invested, and only in the case of a monopoly can you secure dividends upon stock that does not represent money invested. You will find that if the watering of the stock is permitted the cry of the "innocent purchaser" is raised, and you will be told that you must protect the man who bought this stock. My judgment is that no man can stand in the position of an innocent purchaser who buys stock in a corporation if that stock is not represented by actual money invested, because he can find out what the stock stands for if he will only investigate.

But we had a case in Nebraska in which we tried to regulate railroad rates, and one railroad in our state was capitalized and bonded for more than five times what it would cost to duplicate the road, and yet the judge held that in fixing rates and in determining what was fair compensation for the railroad we had to consider the watered stock as well as the actual value of that road, and when the case went to the supreme court the supreme court rendered a decision, which, while I cannot quote it in its exact language, was, in substance, this: That in determining what was a reasonable rate we had to take into consideration a number of things besides the present value of that road, measured by the cost of reproduction.

PUBLICITY AND RENUNCIATION OF MONOPOLY.

Congress can provide for publicity, and that annually or at such other times as the corporation shall make returns of its business and of its earnings, because, as has been well said, corporations

cannot claim that they have a right or that it is necessary to cover their transactions with secrecy, and when you provide for publicity, so that the public shall know just what there is in the corporation, just what it is doing and just what it is making, you will go another long step toward the destruction of the principle of monopoly.

But I am not willing to stop there. I do not want to go one step or two steps. I want to go all the way and make the principle of monopoly absolutely impossible, or a monopoly absolutely impossible in the industry of this country. And therefore, as a third condition, I have suggested that this license shall not be granted until the corporation shows that it has not had a monopoly and is not attempting a monopoly of any branch of industry or any article of merchandise. Then provide that if the law is violated the license can be revoked. I do not believe in the government giving privileges to be used by a corporation without reserving the right to withdraw them when these privileges become hurtful to the people.

I do not go as far as some do and say there shall be no private corporations, but I say this, that a corporation is created by law for the public good, and it should never be permitted to do a thing that is injurious to the public good, and that if any corporation enjoys any privileges to-day which are hurtful to the public, those privileges ought to be withdrawn from it. In other words, I am willing that we should first see whether we can preserve the benefits of the corporation and take from it its possibilities for harm. [A delegate—Would you apply that to rich individuals, also? Say Rockefeller did it on his account.] Mr. Bryan—We have not reached a point yet where an individual has been able to do harm, and in my judgment if we would abolish those laws which grant special privileges and which pick out men to be favorites of the government, no man by his own brain and muscle could ever earn enough money to be harmful to the people.

* * *

My contention is that there is a vicious principle running through the various policies which we have been pursuing; that in our taxation we have been imposing upon the great struggling masses the burdens of government, while we have been voting the privileges to the people who will not pay their share of the expenses of the government. I have claimed that when we collected our taxes we were making the poor people pay not only their own share, but the share of men whom they have no chance to meet at the summer resorts.

Every unjust tax is an indirect form of larceny. There are some people who have visible property, others who have invisible property, and the visible property is always taxed. The invisible property has too often escaped, and as the result the people owning visible property have paid not only their own taxes but the taxes that should have been paid by the owners of invisible property, and I have advocated an income tax because I have believed it the most just tax. I don't mention it to argue the subject here, because I want to avoid the discussion of questions that might be in the nature of partisan or political capital. But if this government will

go out of the business of picking out favorites and follow the doctrine of equal rights to all and special privileges to no man I have no fear that any man by his own brain and his own muscle will be able to secure a fortune so great as to be a menace to the welfare of his fellow men.

[A voice: "What about the multimillionaires? What if they should get control of all our industries?"] Mr. Bryan—First, I would see if they die soon enough to relieve us of danger, and if they didn't I would see what was necessary to protect society from them!

NATURAL MEN AMONG ARTIFICIAL GIANTS.

Every trust rests upon a corporation. At least that rule is so nearly universal that I think we can accept it as a basis for our deliberation. And this brings me to what I regard a very important branch of this subject. When God made man as the climax of creation, He looked upon His work and said it was good, and yet when God got through the tallest man was not much taller than the shortest, and the strongest man was not much stronger than the weaker. That was God's plan. We looked upon His work and said it was not quite as good as it might be, and so we made a fictitious man that is in some instances a hundred times—a thousand times—a million times—stronger than God made man. Then we started this man-made giant out among the God-made pygmies. Now when God made man he placed a limit to his existence, so that if he were a bad man he could not do harm long, but when we made our man-made man we raised the limit on his age. When God made man He breathed into him a soul and warned him that in the next world he would be held accountable for the deeds done in the flesh, but when we made our man-made man we did not give him a soul, and if he can avoid punishment in this world he need not worry about the hereafter.

My contention is that the law that created must retain control, and that the man-made man must be admonished every day of his life: "Remember now thy Creator in the days of thy youth." We are not dealing with the natural man; we are not dealing with natural rights. We are dealing with the man-made man and artificial privileges and so-called rights. What government gives the government can take away. What the government creates it can control, and I insist that both the state government and the federal government must protect the God-made man from the man-made man.

CONFIDENT OF A RIGHT SOLUTION.

I have faith that these questions will be settled, and settled right, but I want to protest against this doctrine that the trust is a natural outgrowth of natural laws. It is not true. The trust is the natural outgrowth of unnatural conditions created by man-made laws. There are some who would defend everything, good or bad, on the ground that it is a part of destiny and you cannot in-

quire into it. The fact that it is, proves that it is right; the fact that it is, proves that it has come to stay, and the most potent argument that was ever made in defense of a vicious system was not that it was right, and ought to stay, but that it has come to stay, whether you like it or not. I say that is the most potent argument that has ever been advanced in behalf of an error—it is here, it has come to stay, what are you going to do about it?

I believe that in a civilized society the question is not what is, but what ought to be, and that every proposition must be arraigned at the bar of reason. If you can prove that a thing is good, let it stay, but if you cannot prove that it is good, you cannot hide behind the doctrine that it is here and you cannot get rid of it. I believe the American people can get rid of anything they don't want and that they ought to get rid of everything that is not good. I believe the duty of every citizen is to give to his countryman the results of his conscience and his judgment and cast his influence, be it small or great, upon the right side of every question that arises, and that in the determination of questions we should find out what will make our people great and good and strong, more than what will make them rich.

MONOPOLY BREEDS ARISTOCRACY.

You have to decide upon a higher ground, and if you were to prove to me that a monopoly would reduce the price of all the articles we have to purchase I would still be opposed to it for this reason, which to my mind overshadows all pecuniary arguments: Put the industrial system of this nation into the hands of a few men and let them determine the price of raw material, let them determine the price of finished products and the wages of labor paid, and you will have an industrial aristocracy beside which a landed aristocracy would be an innocent thing, in my judgment.

I may be in error, but in my judgment a government of the people, by the people and for the people will be impossible when a few men control all the sources of production and hand out daily bread to all the rest on such terms as the few may prescribe. I believe this opinion is the hope of the world. I believe the Declaration of Independence was the grandest document ever penned by human hands. The truths of that declaration are condensed into four great propositions: That all men are created equal, that they are endowed with inalienable rights, that governments are instituted among men to preserve those rights and that governments derive their just powers from the consent of the governed. Such a government is impossible under an industrial aristocracy.

GOVERNMENT BY SYNDICATE.

Place the food and clothing and all that we eat and wear and use into the hands of a few people and instead of being a government by the people it will be a government of the syndicates, by the syndicates and for the syndicates. Establish such a government and the people will soon be powerless to secure a legislative remedy for

any abuse. Establish such a system and the night before election the workman will be notified not to come back the day after election unless the policy of the trusts' candidate is successful. Establish such a government and instead of giving the right of suffrage to the people you virtually give the right of suffrage to the heads of monopolies, with each man empowered to vote as many times as he has employes. I am not willing to place the laboring men of this country absolutely at the mercy of the heads of monopolies. I am not willing to place the men who produce the raw material absolutely into the hands of the monopolies, because, when you control the price that a man is to receive for what he produced you control the price that he is to receive for the labor in the production of that thing.

THE FARMER AND THE TRUSTS.

The farmer has no wages, except as the wages are measured by the price of his product, and when you place it in the power of the trust to fix the price of what the farmer sells, you place it in the power of the trust to lower the wages the farmer receives for his work; and when you place it in the power of the trust to raise the price of what he buys, you do the farmer a double injury, because he burns the candle at both ends, and suffers when he sells and again when he buys of the trust.

Some people have tried to separate the laboring man who works in the factory from the laboring man who works on the farm. I want to warn the laboring men in the factories that they cannot separate themselves from those who toil on the farm without inviting their own destruction. I warn the laboring men in the factories that when they join with the monopolies to crush the farmer, as soon as the farmer is crushed the laboring man will be crushed, and his ally will be destroyed, and in a test of endurance the farmer will stand it longer than the laboring man. I come from an agricultural state—one of the great agricultural states of this nation—and I want to say to you that while our people are, I believe, a unit against the trusts, we can stand the trusts longer than the laboring men; we can stand all the vicious policies of government longer than the laboring man can.

The farmer was the first man on the scene when civilization began and he will be the last to disappear.

But, my friends, why should we try to see who could hold out the longest in suffering? Why try to see who can endure the most hardships and yet live? Why not try to see who can contribute most to the greatness and to the glory and to the prosperity of this nation? Why, those who can contribute most should make this government what the fathers intended it to be. For 100 years this nation has been the light of the world. For 100 years the best of all nations have looked to this nation for hope and instruction. Let us settle these great questions that we have; let us teach the world the blessing of a government that comes from the people, and let us show them how happy and how prosperous people can be.

I believe the doctrine that God made all men of the same dust and did not make some to crawl on hands and knees and others to

ride upon their backs. We recognize that man has his rights and can defend them; and he must also respect the rights of others. Let us show what can be done when we put into actual practice those great doctrines of human equality and of equal rights and make this government what the fathers intended, so that we shall lead the world step by step onto higher ground.

HON. WM. DUDLEY FOULKE.

The question we are called to consider dwarfs in importance all other issues now before the country or the world. When Dreyfus shall have been forgotten, when the war in the Philippines shall be regarded only as one of the episodes of history, when men shall speak no longer of the tariff or the currency, the present era may well be remembered by coming generations as the epoch of that great organic change when the system of competition began to give way to the system of co-operation—a change leading inevitably (whether for good or ill we cannot clearly see) to the radical reconstruction of the world's industrial and social life.

The organizers of the trusts, in their eagerness to put a stop to wasteful and ruinous competition, have been rushing in headlong haste to realize the immediate, personal benefits of increased economy and power offered by these great unions, with little regard to ultimate consequences. Their thought has been, "After us the deluge."

On the other hand, those who have been thrown out of employment or ruined by the suppression of competition, together with that vast conservative element in our population which fears a leap into the dark, are lifting their voices in warning, and some, it may be added, in rather indiscriminate abuse.

Political and Social Effects.—But the political and social effects of monopoly are far more menacing to society than its economic results. The great consolidations of capital are fast seizing the avenues of power that lead to the control of the Government and are seeking to rule the states and the nation itself, often through procured legislatures and corrupted officials. Yet the monopolies are here. A great part of our manufacturing industries and a considerable fraction of our commercial business is already in their hands. When the Sugar Trust controlled 98 per cent of the production of the country it was idle to say that the remaining two per cent could offer any substantial competition. And the present tendency is for all these great organizations to draw closer and closer to the ideal of a perfect monopoly,

though none of them have yet entirely reached it. If this present tendency remains unchecked, it is easy to see that each of the important branches of manufacture will be controlled by a single company. And the people naturally look forward with alarm to the time when in each branch of industry a single monopoly shall control the trade.

Nay, the combining and recombining will not stop even here. A single company is likely to control many branches of industry.

The department store already absorbs nearly all the branches of retail trade. The great anthracite coal fields are practically under the control of two or three railway companies, and it is impossible to say that even the wheat fields of the Northwest, or the cotton fields of the South may not in the future share the same fate. The railroads, indeed, have undertaken many branches of industry as feeders for their great lines. The summer hotel business seems to be passing largely into their hands as well as much of the grain elevator business, shipping, and other agencies of transportation. Who can say, indeed, what branch of industry may not be the feeder for a railway?

As the great nations of the globe are becoming fewer and fewer, until now there are four or five at most, which control the future destinies of mankind, so the tendency of industrial organizations to aggregate is such that I can see in fancy four or five great companies which shall control practically the whole output of the country.

A Socialistic Possibility.—Nay, since all industries are now indissolubly united, who can say (if the present movement should go on unchecked) that a single gigantic organization may not sometime control all production. This will be a form of socialism and yet it may not be at all the socialism which fancy pictures in the dreams of the disinherited.

Socialism may take many forms. The industrial organization of society may be for a time separated from its political organization, but not permanently. Socialism does not necessarily mean equal shares to all in the joint property, or returns. These may be divided according to the services rendered or capital contributed either by the actual stockholders or their predecessors in title, just as private property to-day consists of that which a man earns and acquires as well as that which has come to him by gift or inheritance. It is, however, clear that the mass of the people must have a sufficient interest in the co-operative commonwealth to give the structure a broad base and prevent its toppling over. That it should remain in possession and control of only a few millionaires would not long be tolerated. And yet equality might be found as impossible in a co-operative state as

under the competitive system. So long as men are unequal in skill, industry and ability, the greatest prizes will always be won by comparatively few.

The numerous laws which have already been enacted to break up trade agreements, pools, and technical trusts, have been ineffective. They have resulted in the organization of larger corporations, which are more permanent and more dangerous in their character, than the things which are prohibited by statute. If it were possible to break up these corporations, which may well be doubted, the men who compose them would unite, perhaps, in partnerships or other forms of union to accomplish the same objects. If you break up these there are infinite varieties of organization which will take their place. The tendency of men to associate for the accomplishment of a common purpose is like the law of gravitation, and no statute will be found effective against such a tendency.

The present consolidating tendency of our industrial life is largely beyond our control. We can guide it only a little way upon its journey, for the most part we shall have to stand aloof whether we will or no, and see the salvation of the Lord. And if better things develop than we dream, it will not be the first instance in the evolution of our race where good has been the final outcome of apparent evil, and where the agencies which seemed to portend disaster and ruin, have been in the end the ministers of prosperity and happiness.

BOURKE COCKRAN.

The speech by Hon. Bourke Cockran before the conference was admirable as oratory, and contained much valuable material concerning the relations of labor to capital and other allied subjects, but it was only to a very slight extent a discussion of the trust question. For this reason, and because of its extreme length, it is not reproduced here. Those portions which bore directly upon the theme of the occasion may be thus summarized, without omitting any material part of Mr. Cockran's thought:

The modern trust, in so far as it is characterized by monopoly, is an example of the survival of the fittest in trade—an example of legitimate victory for the winner in the great competition which was open to all. Where many compete one must prevail, and the so-called trust thus stands for industrial predominance through excellence. There can be no harm from that form of monopoly which results from one competitor excelling all others.

That excellence is itself proof that the one excelling is rendering to society a better service than any rival was able to render. So long as the excellence continues the trust manifesting it will survive. When that excellence ceases or materially abates, competition will spring up and the trust will be simply one of many corporations, with no element of monopoly. The same law applies in trade as in professional life. One physician or lawyer may through ability and proficiency in his profession secure a practical monopoly of the best practice. This is his legitimate reward for excellence in the competitive race. As no one proposes or believes it just that the proficient lawyer or doctor should be handicapped or held back in order to give opportunity for the lawyers or doctors of less ability or energy, so in industry and trade it would be unjust and inexpedient to the last degree to hold back the successful competitor in the interest of the unsuccessful. If it can be shown that any trust enjoys monopoly through any other cause than its own competitive power, its industrial excellence, let that cause be removed. If the tariff or railroad discriminations furnish the occasion, let this wrong be corrected, but do not make war upon that industrial excellence which enables one large corporation, called the trust, to surpass all others. We cannot afford to refuse the prize to him who wins it in open competition, and the trust is simply competition at the end of the race.

COMMENT.

The other view would be this: Nobody is complaining of monopoly resulting from industrial excellence. Not one typical trust owes its monopolistic position and advantage to such a cause. All have achieved their predominance through capitalistic combination and absorption—a thoroughly unscientific, uneconomic and, as many contend, unlawful process. It is the difference between true sportsmanship and pot-hunting.

GOVERNOR PINGREE OF MICHIGAN.

In all that has been said about trusts scarce a word has been spoken or written from the standpoint of their effect upon society. The almighty dollar seems to be the standard for measuring all things. Everybody has been asking whether more money can be made by trusts than by small corporations and individuals; whether cost of production will be increased or decreased; whether investors will be benefited or injured; whether the financial system of the country will be endangered; whether we can better compete for the

world's trade with large combinations or trusts; whether prices will be raised or lowered; whether men will be thrown out of employment; whether wages will be higher or lower; whether stricter economy can be enforced, and so on. I believe that all these things are minor considerations. I think it is of far greater importance to inquire whether the control of the world's trade, or any of the other commercial advantages claimed for the trusts, are worth the price we pay for them. The strength of our republic has always been in what is called our middle class. This is made up of manufacturers, jobbers, middlemen, retail and wholesale merchants, commercial travelers and business men generally. It would be little short of calamity to encourage any industrial development that would affect unfavorably this important class of our citizens. Close to them, as a strong element of our people, are the skilled mechanics and artisans. They are the sinew and strength of the nation. I favor complete and prompt annihilation of the trust—with due regard for property rights, of course. I care more for the independence and manliness of the American citizen than for all the gold or silver in the world. It is better to cherish the happiness of the American home than to control the commerce of the globe. The degrading process of the trust means much to the future of a republic founded upon democratic principles. A democratic republic cannot survive the disappearance of a democratic population.

T. B. Walker, Minneapolis.—It has been proposed to me several times to organize a lumber and timber trust. A trust that can handle and control the supply of raw material has a better chance for permanency than one where the supply of raw material can be produced by competing producers to an unlimited extent. It was urged upon me that the pine timber of Minnesota and northwestern Wisconsin might be put into a deal where the lumber prices could be controlled to such an extent that the trust could afford to pay the timber owners a large price for their timber, mills and lumber stock and very readily add enough to the lumber price to cover the excessive purchase price, and to make dividends on the enormous amount of stock that would thus be issued. It was the general proposition to pay us as timber owners a large sum of money, if wanted, and a large block of stock, and it was intimated that a portion of the promoter's share would also be paid over to us! The only possible object in proposing to form this trust was to put so much of the timber together that the prices could be controlled and maintained at a high figure. If it had been shown to these promoters and investors that prices could not be controlled by means of the control of the supply and the limitation of the output, they would not have considered the deal for a moment at even much lower figures than they had proposed to pay. A similar effort was made to draw the Minneapolis flouring mills into a trust, but with like failure.

Hon. E. C. Crow, Attorney-General of Missouri.—It has been assumed that there is in the country a large element opposed to corporate organization and corporate wealth. On behalf of myself and the people of my state I wish to say that no such antagonism exists. But this trust question is a two-sided one. It will not do for the opponents of the trust to say that all trusts are evil and that no beneficent results flow from them. That proposition cannot

be substantiated and should not be assumed. I believe that upon reflection all will concede this proposition to be true: That very frequently the trust puts the product into the hands of the consumer at a lower price than formerly was paid for it, but that is not the gist of the proposition. The question is, shall the power be given to the organized corporate trusts of this country to fix and determine prices at their own sweet will and pleasure and not have prices regulated by the natural law of supply and demand? Therein, I believe, lies the kernal of the proposition. As to the remedies: I don't believe in paternalism; I don't believe in interfering in business affairs any more than is necessary. I believe in the greatest freedom, but I believe we can apply a remedy that will act as a preventive. It is to appeal to that selfish part of human nature which says, we will protect ourselves, our homes and our families. I would do it by enacting for all of the United States, by the state governments, a law that would declare that any holder of stock in a railroad or other corporate business occupation shall be liable to the same extent that a co-partner is liable. I would have these partners considered in one state on the same basis as the partners in any other state—giving them equal opportunity and equal responsibility. That method, I believe, would regulate and control in a harmless manner the business interests of this country.

GOV. GEORGE W. ATKINSON.

Gov. Geo. W. Atkinson of West Virginia.—If the advocates of and participants in the trusts could satisfy the minds of the masses upon the following propositions, they would then have but a limited opposition in the years to come. 1. Will you, and can you, in all cases, as you claim, agree to furnish a better and cheaper article to consumers of all the necessaries of life covered by your trusts and combines? 2. What do you propose to do with the tens of thousands of middlemen now employed, who, of necessity, must lose their present positions? 3. What will become of the "small dealers" scattered over our country from Maine to Florida, and from the surges of the Atlantic to the sunset sea? What are you going to do with the large class of our fellow citizens who are now prosperous and happy in their present occupations? These are momentous problems and involve momentous results.

The first step in solving a difficult problem is to become thoroughly informed on both sides of it.

CHAPTER V.

THE QUESTION OF REMEDIES.

Are Any Remedies Needed?—If So, Shall They Cure by Regulation or Removal?—Concerning Regulation and Palliation—Impracticability of Most Proposed Remedies—Twenty-one Suggestions from Eminent Sources—Analysis of the Leading Ones—Plans of Mr. Bryan and Bourke Cockran—Concerning Remedy by Trust Disintegration—Extirpation Less Difficult Than Regulation—Does the Common Law Permit Any Refuge for Private Monopoly?—Negative Answer Thus Far by the Courts—Legal Warrant of the Trust System.

Any discussion of remedies necessarily assumes that something needs to be remedied; but obviously the choice of remedies will depend upon the nature and extent of the confronting evil. There being as yet no agreement on the latter point, there is naturally no general concurrence as to what remedies shall be adopted. The situation is not, however, by any means chaotic or unhopeful. The problem is relatively new, and a little time is required to clarify the atmosphere. Besides, all proposed or possible remedies can be divided into two classes, according as they are suited to one or the other of two divergent views of the trust system and its evils. Thus it should not be difficult for the advocates of each of these views to unite upon a composite remedy made up from their own list of remedial possibilities.

If the monopoly-trust is in fact a natural evolution, and therefore "here to stay," remedies should be simply regulative or palliative—somewhat after the manner of treatment already applied to the factory system, to pre-

vent unnecessary frictions and abuses. If, on the other hand, as many hold, the trust movement is an artificial and violent subversion of the historic system of competition, and an attempt to substitute what Professor Clark terms, a permanent regime of monopoly not to be tolerated, then the remedies to be devised and applied must look mainly to the disintegration of existing monopoly-trusts and the prevention of future ones. But even in the latter case there is no apparent reason why the friends and opponents of trusts, if both are sincere, should not agree upon a temporary code of regulation, a sort of modus vivendi, pending the preparation and execution by the latter of their more radical program, if they prove able to carry it out.

In casting about for a remedy for any complex difficulty it is nearly as important to learn what cannot be, as what can be done. This process of elimination gradually narrows the field of search, concentrates attention upon the uncanceled possibilities, and thus hastens a successful conclusion. In this indirect way the suggestion of even a totally impracticable plan may contribute somewhat to the final solution.

I.

REMEDY BY REGULATION.

As to regulative measures: From the mass of most recent literature of the trust question, we have gathered the best-matured suggestions from nearly as many different sources, all of which are tersely given herewith. Each suggested remedy stands for a class or group of allied possible measures, hence comment on each serves for its group. Some of them shade into each other, and in forming a plan of trust regulation, several of them, if found satisfactory, could be utilized simultaneously without conflicting. It will also occur to anyone that certain classes of the proposed remedies might be utilized either for purposes of friendly regulation, or for the purpose of gradually wearing out and suppressing or disintegrating an obnoxious trust, according to the intent and wishes of those who enact and those who enforce the laws.

It is obvious at a glance that no one has yet digested anything approaching a definite and comprehensive scheme for regulating trusts and preventing or minimizing the evils which the people apprehend from them. It is no part of the present purpose to attempt to formulate from existing material, or otherwise, such a scheme. If needed that will come later, from the combined wisdom of all. But it is not unfit to point out such elements of weakness or of strength in some of these numerous suggestions as force themselves upon the attention of a student of the subject.

In any similar list of suggestions on any difficult economic question a large proportion would probably be found on analysis to be wholly impracticable, of very slight effect, or incredibly difficult of enforcement, for reasons which do not appear on the surface, and which did not occur to their authors. For example, certain classes of trust remedies proposed by those who are exclusively business men will be found to be unworkable, because their authors had not sufficiently considered the economic principles involved. Both experts in political economy and men of affairs are prone to advocate measures which cannot command acceptance, because they ignore those political necessities which lie back of all legislation, and which have a habit of upsetting the finest possible theories. Lawyers and public men oftenest err by reason of unfamiliarity both with economic principles and with details of practical business problems, but, on the other hand, they are likely to be well informed as to public opinion, and as to what measures can be and what ones cannot be enacted and enforced. They are also usually open-minded and quick to learn what economics and actual business require or will tolerate.

A large section of all such propositions in the present instance have slight value because they can only apply to trusts hereafter to be formed. We cannot pass ex post facto, or retroactive, laws. But a great majority of all our industries which can be consolidated at all are already absorbed by trusts. Thus, no future legislation aimed at overcapitalization and similar corporate vices could apply to present trusts. They are proposals to secure the stable door after the horse is gone. Another part are useless in practice because they depend for their efficacy upon the voluntary co-operation of all the states in enacting and enforcing uniform repressive or regulative measures. Such uniformity of action among forty-five states it is morally impossible to secure, and the idea is not worth a breath. Even if the remaining forty-four states should agree, which is in itself inconceivable, the concurrence of New Jersey could not be obtained. That state has chartered nearly all the trusts, and her

annual revenues from taxation of trust franchises and stocks more than pay the entire cost of running her state government. She can be induced neither to sacrifice that revenue nor to impair or modify the corporate franchises that she has granted.

Still another class of proposed remedies may as well be erased from the list for the reason that their application involves radical changes in the relative scope of state and federal powers. It is useless to run up against an immovable barrier, and the people, north and south, will certainly veto any material enlargement of federal authority at the expense of the dignity, importance and autonomy of the states. If need be, they would rather suffer some grave inconvenience along other lines than to yield a point here. Besides, there is a widespread suspicion that to lodge with Congress unlimited discretionary power over the now gigantic capitalistic interests represented by the trust system, would be disastrous—to Congress. This is not saying that the people will object to any and every enlargement of the power of Congress, over interstate commerce, for example, but radical changes in the national constitution along the line of increasing federal authority in affairs internal to the several states cannot be expected.

Remedies have no prospect of adoption which threaten to do more harm than good by opening the door to socialistic assaults upon the sacredness of private ownership of property. On this rock Anglo-Saxon civilization proposes to stand—for a while longer. Suggestions are valueless which are not tied to some feasible and definite method of applying and enforcing them. Noble hopes and aspirations fired into the air do not stop or restrain monopolies. Finally, it is to be borne in mind that merely regulative measures for the most part aim at one trust evil only, namely, the tendency to oppress the public through high prices. Many believe there is a long list of more serious evils besides this, which cannot be reached by any regulative device.

Here follow in outline the principal remedial proposals:

TWENTY-ONE SUGGESTIONS.

1. Ex-Governor Charles Foster and others: Let the government (state or federal?) levy on all trust corporations a special tax which shall absorb or appropriate all net earnings above, say, six per cent, thus removing the principal inducement for raising price of product, depressing price of raw material or otherwise making exorbitant profits.

2. Attorney-General Crow, of Missouri, and others: Limit the capital and purposes of corporations and make each shareholder personally liable as a partner.

3. Professor George Gunton, Vice-President Archbold, of the Standard Oil Company, and others: Let Congress charter corporations which may, by virtue of their federal charters, do business in all the states without asking the latter's consent.

4. Honorable William J. Bryan and others: Let Congress (by virtue of a constitutional amendment if this be necessary) enact that no corporation shall do business outside its own state, without first receiving a federal license, and even then only with the further consent of each state which it proposes to enter, such license to be granted only on condition that the petitioning corporation proves to a federal commission or court, first, that it is not overcapitalized; and second, that it is not, and does not seek to become a monopoly.

5. Bourke Cockran, Henry Wallace, and others: Compel every corporation to make public, through a system of governmental examinations and reports or otherwise, every fact pertaining to its capitalization, assets, earnings, accounts and business which the public needs to know in order to protect itself against monopolistic wrong.

6. Professor Bemis and others: Remove or lower the tariff on such goods as trusts manufacture.

7. Professor Richard T. Ely and others: Prohibit all secret or other discrimination in railroad rates, thus preventing private monopolies from being sustained by natural monopolies. If necessary let the nation own and manage the railroads.

8. Professor David Kinley, chair of economics, University of Illinois, in "Progress:" "Remove from the trusts the adventitious aids supplied by natural and legal monopolies, then potential competition will be a sufficient safeguard in connection with the following remedial measures: 1. Publicity of accounts. Every corporation which is engaged in interstate or quasi-public business, or is large enough to control an industry, should be subject to supervision by an auditing commission. 2. Stock-watering should be prevented. This could be accomplished by a federal or state commission to regulate or supervise corporations. Capitalization should not be permitted beyond the market value of the plant. 3. The tariff should be removed from trust-made goods. 4. Our patent laws should be amended so as to prevent the suppression of new discoveries and inventions, and so as to afford the general public more advantage from them, and freer access to their use than it now has."

9. Several Citizens: Let the public boycott trust-made goods wherever possible, organizing for this purpose, and give their patronage and encouragement to new competitors. Let states or communities, if necessary, maintain factories or industries, on business principles and a self-supporting basis, but for the public benefit.

10. Senator Chauncey M. Depew: Trusts will fall of their own weight, and industrial society will return to a competitive system, modified by that legitimate tendency toward large-scale production, which all recognize as existing.

11. James B. Dill, corporation lawyer, New York, addressing the Chicago Trust Conference: "Pass the English law, which provides that every holder of stock in a corporation, and every person that buys and owns it, shall be deemed to hold that stock subject to demand in full for cash unless before the stock is issued a declaration,

describing the actual situation of the stock and financial condition of the company, shall have been filed in the company's principal office and distributed in every country where the company does business. Thus the bad corporations would be killed for the reason that nobody would buy their shares."

12. Professor John Bates Clark, chair of economics, Columbia University: Let Congress, so authorized by a constitutional amendment, prohibit discrimination in selling prices by corporations, thus preventing monopoly-trusts from underselling and destroying a competitor in a local field, or in certain lines of goods, while itself maintaining prices and making profits in the general field, or in other lines of goods.

13. Professor J. W. Jenks and others: Let the law require that before the stocks or bonds of any corporation can be listed on any stock exchange it shall file for public inspection at pleasure, a detailed statement of its capitalization, its actual assets and its net earnings.

14. Senator W. E. Chandler: Let the federal government exercise its full repressive power through interstate commerce regulations; let state legislatures place such limitations on corporations by limiting their purposes, amount of capital, etc., as will render them incapable of acquiring monopolistic power.

15. Judge Thompson of St. Louis, as quoted by F. W. Cook, in "The Corporation Problem," page 241: "If the operation of natural laws does not check the trust movement, the remedy is first to be sought outside of law, outside of government, by individual action, by counter movements of some kind. If capital combines against labor, labor must combine against capital. If manufactures combine against agriculture, agriculture must combine against manufactures. If the common carrier combines against the farmer, the manufacturer, the merchant and the laborer, then all must combine against the common carrier. Meet combination with combination; strike with strike; lockout with lockout; fight the devil with fire. Withdraw all governmental aid, in the form of protective tariffs or otherwise, from combinations which threaten to suppress competition in any trade. . . . Withdraw corporate franchises from every corporation which attempts to suppress competition. . . . If these means fail, level against the individuals—not against the corporations—the machinery of the criminal law."

16. Optimists generally: Let the trusts alone. The universal and perpetual pressure of possible competition will prevent their doing any harm.

17. Pessimists generally: Let the trusts alone. They are stronger than society, stronger than the government, and can defeat any movement brought against them. Opposition is a waste of time. We must adjust ourselves to the new dispensation as we do to any other inevitable and permanent evil.

18. Secretary of State John Hay: Let the Republican party attend to the trusts.

19. John R. McLean: Place in power a political party honestly pledged to deal conclusively with the trust system.

20. Springfield Republican: Let all states adopt the Massachu-

setts rule of permitting no corporation to issue stocks or bonds in excess of a fair and officially approved valuation of assets.

21. Socialists generally: Let society or the government assume ownership and management of all industries, beginning with those monopolized by trusts.

COMMENTS.

1. Concerning all proposed remedies which contemplate a legal limitation of trust profits, by means of a special tax on dividends or otherwise, as suggested by ex-Governor Foster and others, reference is made to the remarks on this subject by President Hadley of Yale University, given herein under the title, "Opinions of Economists." He shows how readily such a tax could probably be evaded or defeated by the trusts. Also such a measure, however enacted, would probably require an amendment to the federal constitution, for in one way or another the validity of any such tax, or appropriation of corporate earnings, would be tested by the Federal Supreme Court. It would be next to impossible, except as a last resort, to secure such an amendment because the people would fear it might be the entering wedge to an impairment of property rights generally.

2. Of all proposals like that of Attorney-General Crow of Missouri, to make shareholders in corporations personally liable as copartners, it may be said: (1) They could not affect present trust corporations; (2) they imply voluntary co-operation by all the states, which is impossible. So long as one state refused, the whole scheme would be futile; (3) they involve a virtual sacrifice of the benefits and advantages of our great corporate system, which the country would not listen to. The wheels of business would stop under such a system. Capital could not be had for nine-tenths of legitimate undertakings. No man or woman not sharing the active control could afford to invest a dollar in a corporation, since its insolvency might mean the ruin of every shareholder.

3. The suggestion made by Professor Gunton, Mr. Archbold and others, that the federal government charter corporations, which shall be thus empowered to do business in all the states, is wholly impracticable politically. Congress can charter such corporations and doubtless most existing trusts would cheerfully accept federal charters, since they would then have to deal with only one legislative body instead of forty-five as now, but no Congress can be elected which will adopt this policy, and few congressmen could be reelected who should vote in this direction. It would virtually turn over to the control of the federal government nine-tenths of the domestic business of the states.

4. Of the plan of Mr. Bryan for a system of federal licenses for corporations doing business in more than one state: (1) It would probably be rejected by his own party on the ground that it calls for too great an enlargement of federal power over the internal affairs of states, for while such a license system would not admit into any state a corporation obnoxious to its laws, it could easily be used to exclude from states corporations which the latter would like to welcome. (2) It would require an amendment to the federal constitution,

which probably could not be had for the first reason stated. (3) If adopted and honestly enforced against the evasive tactics of trust lawyers and accountants, it would be serviceable as a mild palliative. (4) Its slight remedial value would not alone warrant the enormous effort required to adopt it.

5. Of the requirement of publicity of accounts, financial condition, etc., advocated by Mr. Bourke Cockran and most others: (1) It would be excellent within narrow limits if adopted and vigorously executed. (2) As applied to existing trusts it would be mainly serviceable to investors by giving them presumably authentic information of the financial state of each company, and to possible competitors in the same industry by aiding them somewhat in getting the facts required in order to decide whether the actual profits of business are sufficient to justify a competitive venture. But possible competitors in great industries have their own sources for such knowledge, much more trustworthy than the enforced and perhaps doctored reports of monopoly-trusts. (3) It would not remedy overcapitalization or any similar corporate vice in an existing trust. (4) What authority would require and enforce the proposed publicity? If New Jersey were expected to do so, there would probably be a great disappointment. If the federal government, then a constitutional amendment, followed by an act of Congress, is needful.

6. Of the proposed reduction of tariff duties on goods such as trusts produce, when it is demonstrable that the present duty promotes monopoly: (1) This suggestion is likely to have strong support regardless of party lines. The dominant Republican party is not likely, while in power, to permit such a movement to go far enough to impair the reasonably protective features of the present tariff, but resistance to all change (particularly in cases like that of tinplate) would be likely to produce some surprising results politically. (2) Not enough is known of the actual effects of the tariff on trust development to warrant any present prediction as to the remedial results of tariff reduction. The findings of the Industrial Commission, now prosecuting its investigation, will go far to determine this point. The indications are that the cases are very few where the active promoters of trust organizations were perceptibly or consciously influenced by any thought of the tariff. It is to be borne in mind that a tariff reduction which would literally "smash" a trust would also crush the independent manufacturers or prevent them from entering the field.

7. Concerning the recommendation made by Professor Ely and others as to railroad discriminations and government ownership and management of railroads: (1) The element of discriminating railroad rates is not by any means so flagrant or so economically important as when the Standard Oil Company was crushing out competitors right and left by its aid. (2) But it is still serious, mainly secret, and needs to be destroyed by the strong hand. (3) Probably Professor Ely overestimates the present economic effect of this element as a cause and bulwark of trusts. Certainly many trusts would survive and prosper if all railroad discrimination were in fact done away, as the Standard Oil and Sugar Trust officials assert is already the case. (4) This result can be completely accomplished by

amending and then properly enforcing the interstate commerce act. (5) If this is done, as it should be at once, the discussion of government ownership of railroads may be safely postponed for a while.

8. Of the suggestions made by Professors Kinley and Jenks: (1) To prevent stock-watering would not squeeze the water out of the stocks of existing trusts. (2) Nobody can legally prevent future stock-watering, except the state chartering future trust corporations —presumably New Jersey, and she will not forego her present profitable industry. The federal government cannot prevent this corporate vice without a constitutional amendment, which, as already stated, probably could not be had for this purpose. The stock exchanges of the great cities can, if they will, practically prevent stock-watering by great corporations in future by refusing to list or deal in the shares of any corporation hereafter organized which is materially overcapitalized. But who shall influence and reform the stock exchanges? All leading exchanges now require the filing of a very full statement of organization, capitalization and condition by every corporation before listing its securities. (2) The suggestion that it be made unlawful hereafter to purchase and then suppress a patent or invention is excellent so far as it goes, but it does not go far toward restraining trusts.

9. Of boycotting trust-made goods, whenever possible, and giving patronage and encouragement to competitors: (1) As an economic force this policy has never been very effective, though it is not absolutely impossible to render it so. The lack of organization on the part of the general public is the main reason for its failure. Then care would have to be used not to violate the laws against conspiracy. (2) If applied there should be some adequate guaranty that the new competitor will not, after becoming formidable through public favor, sell out to the trust for a good price. (3) State or municipal factories might be justifiable as a last resort, but that is the beginning of state socialism, for which the country is not yet ready.

10. Of Senator Chauncey M. Depew's suggestion that trusts will fall of their own weight: (1) Very likely this is too optimistic, although forces of great energy are in motion adverse to the monopoly element in trusts. If the present public hostility proves to be both deep-seated and permanent it is likely to find some mode of making itself felt, but not by awaiting the action of the usual forces of nature. (2) The tremendous economic advantage which a monopoly-trust possesses when once established tends to give it great staying power. There is no instance thus far where a trust thoroughly organized as one corporation has finally gone to pieces. A few have failed through incompetent management, but each has emerged a reorganized monopoly-trust.

11. Of Mr. Dill's excellent recommendation that we enact the English law as to personal liability on all stock not fully paid up in fact: What legislature shall enact the law? That of New Jersey? How many hopeful remedies land in that Jersey marsh!

12. Of the leading suggestion made by Professor J. B. Clark, that discrimination in prices by corporations for the purpose of crushing competition shall be prohibited: (1) If public sentiment were now ready to approve action along this line, it would probably

come nearer to being a solution than any restraining measure yet proposed. It would give to possible competitors just the protection which they need against the club of the monopoly-trust. It would promote and produce wholesome competition, and go far to prevent and suppress the cut-throat element in industrial rivalry. At first it would be difficult, but not impossible, to enforce it. (2) It may be that thorough public discussion of this suggestion may bring favorable action sooner than Professor Clark expects. (3) It would seem to have the merit of applying to all trusts present and future; of avoiding the New Jersey barrier, and of being unobjectionable to the states, if they really want any effective measure adopted. With discrimination in freight charges, and discrimination in trust prices to crush new competition, substantially abolished, many students of the subject besides Professor Clark believe there would be not much left of the monopoly problem.

II.

REMEDY BY TRUST DISINTEGRATION.

Those who intelligently believe that monopoly for monopoly's sake is the central element in the trust movement, that that element has no legitimate connection with the admitted economic tendency toward large-scale production with proportionally large capital, and that a permanent system of monopoly in private hands ought not to be permitted, hold: (1) That remedy by regulation is out of the question, except as a temporary expedient; (2) that remedy by disintegration of the trusts is right, practicable and obligatory; that just as the only possible cure for human slavery is a restoration of human freedom, so the only remedy for industrial bondage is a return to industrial liberty; that as no sops or mitigations can render personal slavery tolerable to the self-respecting man, so no possible regulations or qualifications can reconcile a self-respecting industrial people to a system of private monopoly, which means their forcible exclusion from industrialism. They contend that, even on the ground of practicability, in any such case, extirpation of an evil is far less difficult than its effective regulation; that in a long contest over regulative measures between intrenched, alert

Mr. Foulke has suggested that if the corporate form be rendered by the courts untenantable for the trusts, they may become partnerships and thus hold on to their monopolies, issuing debentures, profit-sharing or otherwise, to former security holders. Aside from evident business reasons which would in practice prohibit such a course, there is no apparent reason why the same principle of law which would make the shareholders and officers of a single corporation, which maintains a private monopoly or suppresses competition, co-conspirators against public policy, would not apply with like force to the members and agents of a partnership, and finally to an individual or sole dealer and his responsible employes.

and allied monopolies on the one hand, and an unorganized, poorly led and over-busy public on the other, the latter is sure to fight a losing battle; that the results to be accomplished by even the best attainable system of mere palliation and regulation are of so slight importance and value when analyzed, added to the apathy and demoralization caused by the recognition of the right of a monopoly system to exist at all, as to undermine all popular interest in its enforcement; that the obstacles to such enforcement, under our dual and composite system of governments, are next to insuperable and prevent any satisfactory result; that any possible system of effective regulation must involve a degree of governmental interference with the business affairs of the people in every state that would quickly produce revulsion of sentiment and a repeal of regulative laws.

They hold, on the other hand, that the policy of compulsory disintegration obviates nearly all of the objections that are thus urged against the half-way measures of regulation; that it is simple, just, direct, immediate; that it requires no impossible co-operation by forty-five different-minded commonwealths; that it probably involves no change in the federal constitution, and that it certainly implies no objectionable curtailment of the authority and dignity of the states. They remind us that it does not mean a return to barbarism, medievalism, the hand-loom or the stagecoach; that it does not require even a partial sacrifice of the economic advantage represented by modern large-scale production, with corresponding and legitimate concentrations of capital; that it does not mean a crusade against corporations or wealth, or a protest against a process of natural industrial evolution. In a word, their contention is that the legal expulsion of the monopoly element from the modern trust will deprive industry and society of nothing of value, but, on the contrary, will liberate both from an unnatural and unbearable load; that when by the enforcement of law it has been made plain to the managers of any trust that they shall no longer maintain or seek a monopoly, such trust will not necessarily return to its original scattered units, but will separate into natural economic groups, which will thereafter serve society and presumably earn dividends, under such a system of honorable and sensible competition as past experience and the scientific spirit of the age shall evolve. What, in such case, will happen to certain watered stocks, is not for the public to say. The trust, even in the process of dissolution, needs no guardian.

No plan has been devised and matured, and nobody has gone into print with catalogues of remedies along this line, but events and the orderly progress of social and legal forces promise to be equal to the emergency. From sources which would com-

mand attention, were names permitted to be given, are gathered and summarized in untechnical language, the following suggestions:

1. The spirit of the common law, which prevails throughout the United States in the absence of legislation, is historically and immovably opposed to private monopoly. In twenty-nine states, including the great commonwealths of New York, Ohio, Indiana and Illinois, which the trusts cannot ignore and live, the common law is effectively reinforced by anti-trust statutes defining public policy and arraying it uniformly against all that savors of monopoly. Throughout the entire republic the power of the federal government is marshaled on the same side in all matters affecting interstate commerce.

2. American courts, especially the highest ones, in state and nation, are able, incorruptible and fearless. With exceptions so few as to emphasize the rule, their attitude is uniformly one of intelligent, inflexible and aggressive opposition to monopoly. Whenever and wherever they have had an opportunity to pass upon the question, they have ruthlessly stripped off every disguise, brushed aside the cobweb defenses which legal casuists had provided, gone straight to the fundamental equities involved, and left no refuge within which private monopoly could abide. They have driven the monopoly-trust from one retreat to another, until now it is domiciled exclusively in the single corporation, its inner and final citadel, as it were, which the trust attorneys have advised their clients is legally unassailable. This advice is broadly based on these propositions: (1) In the line of legitimate business, freedom of contract; freedom to buy and sell, cannot be legally questioned; (2) a corporation is one (artificial) person. As a legal unit cannot conspire or combine with itself, therefore, acting alone, a corporation is incapable of violating laws against conspiracy and combination in restraint of trade; (3) a modern trust is one corporation; as such it has bought such properties as it has chartered and legal right to buy, and from parties who had an equal legal right to sell. Not having conspired or combined with anyone, and its regular business being legitimate, the trust has offended against no law, and therefore it cannot be molested.

3. This looks like a granite wall of indefinite height. It seems likely to prove a stage property of painted cardboard. As will be seen elsewhere in this volume, the St. Louis Court of Appeals, which has a wide repute for ability and conservatism, has recently and unanimously decided that, as a corporation is nothing except as represented by its shareholders, officers and directors, it and they may be guilty of conspiring and combining

with and among themselves to violate anti-trust laws or the common-law prohibitions against combinations in restraint of trade. This is not a new view, but it is newly applied to the modern trust. If when thus applied it proves to be good law with the United States Supreme Court, important results are likely to follow.

The Supreme Court of Illinois, containing some of the ablest jurists in the country, has just decided unanimously, in the Glucose case, that neither an Illinois corporation, nor a foreign corporation doing business in Illinois, can lawfully abdicate its chartered functions, and sell and convey its property and business in that state to a trust corporation under conditions which show that the purpose is to eliminate competition and create a practical monopoly.

4. The principles of law underlying these two decisions, if applied in half a dozen leading states, or affirmed by the federal Supreme Court, will, it is held, disrupt practically and promptly nine-tenths of the trusts in existence. If so, here is the beginning of the end. As fraud vitiates every contract into which it enters, however regular the form may be, so monopolistic intent or result vitiates every scheme or business transaction, however regular otherwise, which manifests that intent or leads to that result. That freedom of contract which is impliedly guaranteed by the life, liberty and property clause of the federal constitution does not extend to nor cover contracts to buy or sell property when such purchase or sale evidently forms part of a plan to monopolize an industry. No monopoly-trust can long survive which cannot go into the courts and successfully defend the legality of the steps by which it became or sought to become a monopoly-trust. Such defense is believed by many to be impossible. If impossible, then most monopoly trusts have no lawful or enforcible title to the plants they have absorbed.

5. Good law is good reason. To plain people it has never seemed reasonable that the act of systematically suppressing competition and of substituting private monopoly for the sake of monopoly could be unlawful and punishable when committed by a group of citizens using one form of organization, say the original trust or the practical corporate partnership, and suddenly become lawful and unassailable when committed by the same group of citizens using a somewhat different organization, namely, the single corporation. In both cases the offense, the offender, the intent and the effects upon society are the same, yet the law, which attacked and destroyed the former, is expected to protect and foster the latter. To state the proposition clearly is to explode it. But this is the one proposition on which the modern monopoly-trust takes its stand, and upon the soundness

of which its safety and duration depend. As the legal advisers of the trusts were sorely mistaken in each previous case, so, it is suggested, they are likely to be in this final one. Apparently they have not reckoned with the spirit of Anglo-Saxon law.

6. If private monopoly embodied in trusts were in position to ask no favors and demand no rights from the law and from society, the case would be somewhat changed. But not only is every monopoly-trust the creature of law, not only must it transact business outside its own state, by permission of law, but day by day it depends upon the active care and assistance of the law of the country and of the community for its safety, its solvency, its prosperity, its existence—for the protection of its property and the enforcement of its property rights. The amazing situation, then, is this, that organized private monopoly which is itself an outlaw by the ruling of every court before which it has ever appeared, by donning the apparel of a corporation claims the privilege enjoyed by every law-abiding citizen, of calling the law, the government and the people to its assistance, even to the entire physical and financial resources of the republic if necessary. Just how long this interesting spectacle will be presented it lies mainly with the courts to determine, and it is only recording current events to say that they are showing no timidity or reluctance in facing their responsibility.

Professor Clark, of Columbia University, answering his own question, whether or not we can expel the monopoly element from the modern industrial trust, says, "If we must, we can." And this is said of Lincoln: Early in '61, when the war clouds had gathered, a delegation of prominent conservatives formally waited on the President and its solemn spokesman presented twelve different and to him conclusive reasons why a war of coercion must be a failure. As the statement proceeded, the President gazed out of that historic southern window, as though his thought was taking in all of the republic's past and all its future. The speaker closed impressively with, "Mr. President, we cannot preserve the Union by force." Without haste, and without hesitation, Lincoln replied, "My friends, we've got to." The delegation returned to their homes in sadness, and history went on its way.

CHAPTER VI.

THE COURTS AND THE TRUSTS.

A NOTABLE JUDICIAL DECISION.

A trust which has taken the form of a single corporation (as practically all trusts have now done) cannot escape the prohibition and penalties of anti-trust laws on the plea that, being a single entity, it cannot combine or conspire with itself and hence cannot violate a law against combinations in restraint of trade. Such a corporation is necessarily composed of and controlled by natural persons and these may be guilty of combining and conspiring with each other and with the corporation to violate law.

The St. Louis (Mo.) Court of Appeals has recently (August, 1899) rendered a decision, following in the line of others by both state and federal courts, herein cited, which seems to go to the heart of the trust question on its legal side. The case involved the construction and application of the Missouri anti-trust statute, and, as will be seen, the decision, which was unanimous, broadly covers the legal proposition stated at the head of this article.

One section of the act of 1891, of that state, provides that "any purchaser of any article or commodity from any individual, company or corporation transacting business contrary to any provision of the preceding sections of this act, shall not be liable for the price or payment of such article or commodity, and may plead this act as a defense to any suit for such price or payment." The court held in substance, says the Central Law Review, that a trust cannot cloak its object under the form of a corporation and evade the penalties provided by the anti-trust law. Under this decision accounts with trusts operating as corporations in Missouri are not collectible. The suit was by the National Lead Company against the S. E. Grote Paint Store Company for balance due on account. The defense was that the plaintiff was a trust

formed to control prices, in violation of the provisions of the anti-trust law. On a trial below the plaintiff got judgment. The Court of Appeals reverses and remands the case. The evidence showed that the National Lead Trust was organized in 1887 to control the lead business of the country. It continued under the trust form of organization until 1891, at which time it had absorbed thirty companies in the United States and Mexico engaged in the paint and lead business.

COMBINATION CHANGED TO A CORPORATION.

In 1891, following the enactment in Missouri of legislation adverse to trusts it was organized in the form of a corporation under the name of the National Lead Company.

The attorneys for the National Lead Company contended, in the trial of the case, that the defense set up by the attorneys of the S. E. Grote Paint Store Company could not stand because the National Lead Company was a corporation, not a trust. They argued to the Court of Appeals that the trial court had erred in admitting evidence of the objects of the corporation—in other words, evidence tending to show that it was a corporation organized to control prices as a trust.

It was also claimed that the company, having a charter from the state, could only be proceeded against in the name of the state and not by an individual.

The opinion of the Court of Appeals, written by Judge Bond and concurred in by all the members of the court, is lengthy and exhaustive.

"The crucial question in this case," says Judge Bond, "is whether the plaintiff corporation, either in its organization or business operations in this state, has offended any of the provisions of its law? That the predecessor of the plaintiff, the 'National Lead Trust,' was an unlawful combination, both in purpose and fact, is sufficiently established by the nature of the agreement under which it was created and the methods and practices resorted to in furtherance of that agreement. The agreement in question can only be construed as a contract to suppress competition, fix the price of commodities, and limit their production, and to restrain trade. Unless some one or all of these purposes had been entertained by the signers of the trust agreement, it would not have contained provisions looking to the acquisition by the trustees of the entire lead business of the country nor would it have united in the accomplishment of that end a majority of the stockholders of the largest corporations dealing in that product. That it had these objects in view and practically accomplished them, is evident from the fact that it

started with a contract of eight corporations and terminated after having issued ninety millions of trust certificates, and after it formed a combination of thirty corporations, constituting a large majority of the lead dealers of the country who had united themselves together in the effort to realize dividends upon the aforesaid capitalization out of assets of less than one-fourth in value of the amount for which trust certificates had been issued. While the conclusion of the illegal purpose of the trust agreement is irresistible upon a consideration of its several provisions and the manner in which they were carried out, it will appear from an examination of the cases that this result had been declared by every court called upon to review that agreement, or others substantially like it. State vs. Standard Oil Company, 49 Ohio St. 137; Distillers, etc. Company vs. The People, 156 Ill. 448; Bishop vs. A. Preserving Co., 157 Ill. 1. c. 311; People vs. N. R. S. R. Company, 121 N. Y. 582; Unckles vs. Colgate, 148 N. Y. 529; U. S. vs. Freight Assoc., 166 U. S. 505.

UNLAWFUL CHARACTER NOT TRANSMITTED.

"But the illegality of the organization and operation of the National Lead Trust does not involve the conclusion that the purchaser of its assets, whether a natural or artificial person, succeeded also to the status of that illegal combination under the laws enacted in this state for the punishment of pools, trusts and conspiracies. For the mere purchase by one of the assets which another has employed for an illegal purpose does not of itself imply that they will be used by the purchaser for the purpose of effectuating the objects to which they had been devoted by the seller. Such an intent on the part of the purchaser, if inferable, must be gathered from proof of all the circumstances characterizing the transaction, as well as his subsequent conduct. As to these sources of proof, the record in the case under review shows that the beneficial owners of the property were the subscribers to the National Lead Trust and holders of its certificates, and that these same persons remained the beneficial owners of the same property after it was converted into the capital of the plaintiff corporation, the only difference being that each holder of a trust certificate received in lieu thereof shares of stock in the new corporation at an agreed rate of exchange, and the further fact that the legal title to the property was put into a corporate entity instead of a body of nine trustees appointed under the trust agreement. The sale itself was titular, rather than real."

Upon the question whether the mere fact of the plaintiff's corporate charter exempts it from the application of the law pro-

hibiting combinations and trusts, the court says: "The first section of the act of 1891, supra, provides that any corporation wherever created which is 'organized to do business in this state, or any * * * individual or other association of persons whatsoever who shall create, enter into, become a member of or a party to any pool, trust agreement, combination, confederation or understanding with any other corporation, * * * individual, or any person or association of persons, to regulate or fix the price of any article of merchandise or commodity, "or in the same manner" to fix or limit the amount or quantity of any article, commodity or merchandise to be manufactured, mined, produced or sold in this state, "shall be deemed and adjudged guilty of a conspiracy to defraud, and be subjected to penalties as provided in this act." Can it be rationally held that the legislature had in view the commission of the criminal offense created in the foregoing section by a corporation as such, separate and apart from the individuals composing it? There is no legal ground upon which such a view can be entertained."

THE MEN BEHIND A CORPORATION CAN CONSPIRE WITH IT.

A corporation can only act through its members or their agents. The corporate entity with which the law clothes it for special purposes is not self-acting, hence there was no thought of its action only, in the mind of the framers of the statute. The evident purpose of the legislature was to specify certain acts, which, if done by its stockholders or governing bodies, should constitute a crime on the part of the corporation. It did not contemplate the commission of an offense by an impalpable abstraction, which could neither think nor act; but it intended to bind this corporate entity by the imputed actions of its human agencies. In other words, the legislature referred to the corporation in its true essence as an association of persons without which it could not exist, and through whom alone it must perform all its functions as a corporate being. Morawetz on Corporations, Section 227; Taylor on Corporations, Section 51; State vs. Standard Oil Company, 49 Ohio St. 137; Buffalo Oil Company vs. Standard Oil Company, 106 N. Y. 669; Boogher vs. Life Association of America, 75 Mo. 319. Hence it must follow that if the stockholders and governing officers of the plaintiff corporation combined with each other to violate any of the provisions of the section under review through the instrumentality of their corporate entity, then the corporation composed by them was a party to such illegal combination within both the letter and the spirit of the above section of the Act of 1891. Or correctly stated, that a combination which is illegal under the anti-trust law can-

not be operated under the cloak of a corporation, and by its constituent members or governing bodies. This conclusion is believed to be irresistible in reason and has received the unwavering support of the courts and the text-writers. Ford vs. Milk Shippers' Association, 155 Ill. 166; People vs. Gas company, 130 Ill. 275; Distilling company vs. People, 156 Ill. 448; Strait vs. National Harrow Company, 18 N. Y. Supp. 224; Beach on Monopolies, Section 158; Hirsch on Com. Corp., p. 86; American Biscuit and Manufacturing Company vs. Klotz, 44 Fed. Rep. 723; Merz Capsule Company vs. United States Capsule Company, 67 Fed. Rep. 414. In the case of Ford vs. Milk Shippers' Association, supra, the members of a milk trust, subsequently incorporated, brought an action against a purchaser of the commodity sold by the corporation, who defended on the ground that it was formed in furtherance of a trust scheme, and transacting business in contravention of an anti-trust act substantially the same as that pleaded in defendant's answer in the present action. It was insisted for the plaintiff that being a corporation it could not violate the statute, to which defense the Supreme Court of Illinois answered as follows: "The corporation, as an entity, may not be able to create a trust or combination with itself, but its individual shareholders may, in controlling it, together with it, create such trust or combination that will constitute it, with them, alike guilty." The point in judgment in that case is identical with the issue presented in the one before us. The conclusion reached by the Illinois court is logical, fully sustained by the above and other authorities, and in exact accord with the views heretofore expressed in this opinion.

THE LATEST ANTI-TRUST DECISION.

THE ADDYSTON PIPE COMPANY CASE.

On December 4, 1899, the Supreme Court of the United States unanimously affirmed the decision of the Circuit Court of Appeals of the sixth district against the Addyston Pipe Company, known as the Iron Pipe Trust, Justice Peckham writing the opinion. The action was brought in Tennessee by the United States attorney under the Federal Anti-trust Law, alleging restraint of interstate commerce. The District Court decided in favor of defendants, but this decision was reversed by the Circuit Court of Appeals, Justice Harlan and Judge Taft sitting. The Pipe Company appealed to the Supreme Court. The defendants in the case were six corporations, whose plants were situated in several different states, and doing a general

business in the manufacture and sale of cast-iron, water and gas pipe. They entered into a close combination, but not a consolidation, whereby they agreed to maintain a uniform schedule of prices, to parcel out the country among themselves, to refrain from selling in each other's territory, and to auction off among themselves the privilege of being practically the sole bidder for contracts in unallotted territory. In other words, all competition was suppressed, and each member of the combine had a close monopoly within its own district.

The Supreme Court decides, among other things, that the agreement not to ship goods into certain states is a direct restraint of interstate commerce, and, hence, in violation of the federal anti-trust law of 1890. The contention of the defendants' counsel was that under the federal constitution private contracts between individuals and corporations cannot be questioned or interfered with by legislatures or the courts on the ground that they operate in restraint of interstate commerce. The Supreme Court squarely negatives this argument, and holds that the power of Congress over interstate commerce and the maintenance of competitive conditions are more important and necessary than the freedom of the citizen to enter into contracts of this nature. The decision draws a clear distinction between combinations affecting interstate commerce, and those whose operation is confined within the boundaries of a single state.

COMMENT.

This decision is important in several respects: (1) It clearly indicates the attitude and temper of the Supreme Court toward private monopoly not affirmatively authorized by law; (2) it shows that our highest court is thus far unanimous in that attitude; (3) it settles the fact that the power of Congress to regulate interstate commerce applies to the acts of individuals and corporations and not merely to the states and subdivisions thereof. The decision has only an indirect bearing upon the legality of that latest form of the industrial trust which consists of a single corporation absorbing an entire industry by the outright purchase of all competing plants. All other possible forms of monopoly seem now to have been branded as unlawful and the public, including both the friends and opponents of the trust system, will await with much interest the trial of a case which shall test the final question, that question being substantially this: The highest courts of the country, federal and state, having at every stage unanimously declared it to be unlawful to monopolize an industry by any and every other conceivable method, because such monopolizing is contrary to public policy and subversive of the public welfare, will the same courts at the next and final stage declare it lawful to monopolize the same industry simply because the same competing concerns, with the same intent and the same results, com-

bine through the process of purchase and sale instead of by agreement, co-operation or conspiracy? Obviously that freedom of contract which the federal constitution impliedly guarantees to the citizen is subject to construction, interpretation and limitation by the courts in the exercise of their wide judicial discretion. Are the courts which have rendered the recent unbroken line of anti-trust decisions likely or unlikely to give that implied guaranty an interpretation which, in their already expressed opinion, would establish a monopoly system that is contrary to public policy and subversive of the public welfare? On the answer to this question would seem to depend the continued existence of the present trust system.

TRUSTS AND FEDERAL LAW.

The attitude of the United States government toward trusts is expressed by the Act of July 2, 1890, an Act "to protect trade and commerce against unlawful restraints and monopolies," which provides "that every contract or combination in the form of trust or otherwise or conspiracy in restraint of trade or commerce among the several states or foreign nations is hereby declared to be illegal."

This statute was based upon the constitutional provision that Congress should have authority to regulate commerce with foreign nations and among the several states. Several important decisions of the Supreme Court defining the applications of this statute were rendered in the year 1898. In the meanwhile, however, rules affecting its construction have already been laid down. For instance, in 1894, it was decided by the Supreme Court that the statute did not refer to transactions within the boundaries of single states. The case in which this was decided was that of the United States vs. E. C. Knight Company, and arose from the monopoly of the refined sugar manufacture. It was urged that the possession of this monopoly was a violation of the Act, since the sugar would be sold outside the states in which it was produced. The court decided, however, that the destination of the sugar was a matter of no importance and that legally viewed the action of the corporation was wholly within the jurisdiction of the state in which it was located. Any different interpretation of the Act would give Congress, in the opinion of the court, control over practically all important business transactions which could be shown to affect indirectly interstate commerce. Any contracts or combinations to control domestic enterprise within the state may tend indirectly to restrain interstate commerce, but the national government did not by this Act intend to assume control over them to the exclusion of the jurisdiction of the state. The only things which this Act sought to prohibit were contracts, combinations or conspiracies which had to do with the final movement of the completed product from the state of its origin to the state of its destination. The Act did not apply

to the production, which was altogether distinct from interstate commerce.

The next important decision affecting the construction of the Act was that in the case of the Trans-Missouri Freight Association in 1897. A large number of railroad companies had made an agreement to establish and maintain reasonable rates, rules and regulations on all freight traffic of the associate roads. The emphasis was laid on the word "reasonable," and it was urged on behalf of the companies that the kind of contracts, combinations and conspiracies referred to in the law were only those which resulted in an unreasonable restraint of trade or commerce. As to this, the court refused to consider the character of the restraining contract and held that the Act applied to all contracts, whether reasonable or unreasonable, that tended to the restraint of interstate or foreign trade. This was decided by a bare majority of the court.

In another case, that of the Joint Traffic Association, there was an agreement among several railroad companies "to establish and maintain reasonable and just rates, fares, rules and regulations on state and interstate traffic." The same principles were involved as in the case of the Trans-Missouri Association and the court rendered an adverse decision on October 24, 1898. Some new arguments of importance were advanced at the trial. It was held that the Act as construed by the court in the case of the Trans-Missouri Association was unconstitutional on these grounds. The constitution gave Congress the power to regulate commerce, but this power was subject to another clause providing that no person should be deprived of liberty without due process of law. The rights which all persons possess of freedom in the making of contracts and in the choice and pursuit of callings could be limited by legislation only in so far as was compatible with the general welfare and security of society. A contract of any kind may be in effect a restraint of trade, but Congress has not the authority to prohibit such a contract merely on that ground. The reasonable or unreasonable nature of such restraint of trade, in other words its bearing upon the general welfare of society, must be determined before it is prohibited by law. The Trans-Missouri decision, however, had refused to take into account the reasonable or unreasonable character of such transactions. It seemed to assert the principle that Congress by an arbitrary act could prohibit contracts which were in no wise detrimental to the general welfare. Now that this principle was admitted there was nothing to prevent the prohibition of a great variety of business contracts of perfectly justifiable nature. As illustrations of the sort of contracts which might be prohibited as in restraint of trade were mentioned organizations of mechanics to limit the number of persons employed in the industry and to maintain wages; a contract of partnership as the incorporation of a company consisting of persons previously engaged in the same line of business; the sale of the good will of a business with an agreement not to enter the field as a competitor, etc. The court admitted that the constitutional rules as thus interpreted were correct. Such contracts as were cited, however, did not come within the legal definition of contracts, combinations or conspiracies in restraint of trade. The court said that "the Act of

Congress must have a reasonable construction or else there would scarcely be an agreement or contract among business men that could not be said to have indirectly or remotely some bearing upon interstate commerce as a possible effect to restrain it." The principle of the decision rendered in the Trans-Missouri case was that only such contracts or combinations as were directly in restraint of trade fell within the provision of the law. The law did not apply to those contracts whose effects were indirectly in restraint of trade. This decision was again rendered by a bare majority.

Another important case decided at the same time was that of the Kansas City Live Stock Exchange, which was said to be an illegal combination in restraint of commerce, because by the rules of the Exchange the members were in some degree restricted in their dealings with outsiders, and because these rules in other ways limited trade to some extent. Here the court decided that the Anti-Trust Act did not apply to any other trade or commerce than that which exists or may exist among the several states or with foreign nations; it was not to be construed as applying to all operations which might in the long run add to the cost of such foreign or interstate commercial interchange. Although the members of the Kansas City Live Stock Exchange dealt in live stock, which was purchased from or sold in other states and territories, it did not fall within the terms of the statute as being in restraint of trade. In this decision the court was unanimous.

It is obvious that some limitation of the bearing of the Act in practice was necessary, since otherwise it would have had a range far beyond that which was intended. It was a difficult thing to impose these limitations without real or apparent inconsistency. Such inconsistency becomes conspicuous in a comparison of the Joint Traffic case or the Live Stock Exchange case with the Trans-Missouri case. In the latter case the demand that the Act should be construed reasonably and not literally was rejected and the court declared that any contract in restraint of interstate or foreign trade, whether reasonable or not, was prohibited. In each of the two former cases, however, the court said that a reasonable construction must be given to the Act and that certain contracts did not come within the legal definition of acts in restraint of trade, and that the Act did not apply to contracts which only indirectly tended to restrain interstate trade.

To sum up, the construction placed by the court upon this Act down to the close of the year 1898 has established the following principles: (1) The statute does not relate to any transaction that takes place only within the boundaries of a single state. (2) It does not relate to transactions which have only an indirect effect in restraint of interstate commerce. (3) In determining whether contracts or combinations exert a direct restraint upon interstate commerce, the Act is to be reasonably interpreted. (4) That any transactions which do so directly tend to restrain trade fall, whether reasonable or not, under the prohibitions of the Act. Thus prices may be kept up by a combination or producers in any one state, even though the commodity is destined for exportation to another state; wage-earners may form combinations to limit the number employed in any par-

ticular industry or to maintain wages; persons may combine to maintain the prices of goods or services or facilities which are employed in interstate commerce; and, in general, any line of action, whether in the long run restrictive of interstate commerce or not, is not within the application of the Act unless its effect is directly in restraint of that commerce. Thus after eight years of application the Inter-State Commerce Act has been found in practice to have a very limited scope. So far as there is a further demand for legislation in restraint of combinations and monopolies, it can be met only by the legislative branches of the different state governments, if the Act of July 2, 1890, continues to be interpreted as at present.—International Year-Book, 1898, pp. 783-5.

TRUSTS AND THE PUBLIC WELFARE.

ATTITUDE OF AMERICAN JUDICIARY AS MOST RECENTLY ILLUSTRATED BY THE UNITED STATES SUPREME COURT.

Mr. Justice Peckham, in presenting the majority opinion of the United States Supreme Court in the well-known case of the United States vs. The Trans-Missouri Freight Association, March 22, 1897, expressed these views on the general subject of trusts and trade combinations preventing free competition:

"It is true the results of trusts or combinations of that nature may be different in different kinds of corporations, and yet they all have an essential similarity and have been induced by motives of individual or corporate aggrandizement as against the public interest. In business or trading combinations they may even temporarily, or, perhaps, permanently, reduce the price of the article traded in or manufactured, by reducing the expense inseparable from the running of many different companies for the same purpose. Trade or commerce under those circumstances may, nevertheless, be badly and unfortunately restrained by driving out of business the small dealers and worthy men whose lives have been spent therein and who might be unable to readjust themselves to their altered surroundings. Mere reduction in the price of the commodity dealt in might be dearly paid for by the ruin of such a class and the absorption of control over one commodity by an all powerful combination of capital. In any great and extended change in the manner or method of doing business it seems to be an inevitable necessity that distress and perhaps ruin, shall be its accompaniment, in regard to some of those who were engaged in the old methods. A change from stage coaches and canal boats to railroads threw at once a large number of men out of employment. Changes from hand labor to that of machin-

ery, and from operating machinery by hand to the application of steam for such purpose, leave behind them, for the time, a number of men who must seek other avenues of livelihood. These are misfortunes which seem to be the necessary accompaniment of all great industrial changes. It takes time to effect a readjustment of industrial life so that those who are thrown out of their old employment by reason of such changes as we have spoken of may find opportunities for labor in other departments than those to which they have been accustomed. It is a misfortune, but yet in such cases it seems to be the inevitable accompaniment of change and improvement. It is wholly different, however, when such changes are effected by combinations of capital, whose purpose in combining is to control the production or manufacture of any particular article in the market, and by such control dictate the price at which the article shall be sold—the effect being to drive out of business all the small dealers in the commodity, and to render the public subject to the decision of the combination as to what price shall be paid for the article. In this light it is not material that the price of an article may be lowered. It is in the power of the combination to raise it, and the result, in any event, is unfortunate for the country, by depriving it of the services of a large number of small, but independent dealers, who were familiar with the business, and who had spent their lives in it, and who had supported themselves and their families from the small profits realized therein. Whether they be able to find other avenues to earn their livelihood is not so material, because it is not for the real prosperity of any country that such changes should occur which result in transferring an independent business man, the head of his establishment, small though it might be, into a servant or agent of a corporation for selling the commodities which he once manufactured or dealt in—having no voice in shaping the business policy of the company and bound to obey orders issued by others. Nor is it for the substantial interests of the country that any one commodity should be within the sole power and subject to the sole will of one powerful combination of capital. Congress has, so far as its jurisdiction extends, prohibited all contracts or combinations in the form of trusts entered into for the purpose of restraining trade and commerce. The results naturally flowing from a trade or combination in restraint of trade or commerce when entered into by a manufacturing or trading company, such as above stated, while differing somewhat from those which may follow a contract to keep up transportation rates by railroads are, nevertheless, of the same nature and kind, and the contracts themselves do not so far differ in their nature that they may not all be treated alike

and be condemned in common. It is entirely appropriate, generally, to subject corporations or persons engaged in trading or manufacturing to different rules from those applicable to railroads in their transportation business, but when the evil to be remedied is similar in both kinds of corporations, such as contracts which are unquestionably in restraint of trade, we see no reason why similar rules should not be promulgated in regard to both, and both be covered in the same statute by general language sufficiently broad to include them both. We see nothing either in contemporaneous history, in the legal situation of the time of the passage of the statute, in its legislative history, or in any general difference in the nature and kind of these trading or manufacturing companies from railroad companies, which would lead us to the conclusion that it cannot be supposed the legislature, in prohibiting the making of contracts in restraint of trade, intended to include railroads within the purview of that act."

THE ILLINOIS GLUCOSE CASE.

The first important case to be determined by the highest court of any state, bearing directly upon the legality of that latest form of industrial trust, the single corporation, was decided on October 19, 1899, by the Supreme Court of Illinois in a unanimous, elaborate and forcible opinion. The case was that of George F. Harding and others against the American Glucose Company. The facts as brought out at the trial and summarized in the opinion written by Justice Magruder are briefly these:

The business of producing glucose can only be carried on successfully in what is known as the "corn belt" of the United States. The industry is represented at present by six large factories, mainly situated in Illinois and Iowa, all of which were, until 1897, independent and competing concerns. One of these was the establishment at Peoria, Illinois, owned by the American Glucose Company, a corporation of the State of New Jersey. In August, 1897, the Glucose Sugar Refining Company of New Jersey was organized with a stock capital of $40,000,000 for the purpose of consolidating these six factories, that is, the entire glucose industry, into a single ownership or trust. The consent was obtained of the holders of a majority of the stock of each of the local companies, including the American of Peoria. Under the laws of New Jersey all the property and business of a corporation may be legally sold and conveyed by the directors with the consent of two-thirds in interest of the stockholders, while in most

of the states, including Illinois, this is not the case, and any minority stockholder has a right to make legal protest against such action, except when the corporation for legitimate reasons is going into liquidation and retiring from business. Conveyance of the plant and business of the American Glucose Company was executed and delivered to the newly formed trust in 1897, whereupon Harding and other dissenting stockholders of the American Company brought the suit just decided to invalidate and prohibit, such sale and conveyance on the ground that they were illegal (1) because the consent of the minority stockholders was necessary and was not obtained, and (2) because such attempted sale and conveyance constituted part of a combination and conspiracy to form a trust and monopoly contrary to public policy and in violation of the anti-trust statute of Illinois. It was alleged by the plaintiffs that such trust had been organized under the laws of New Jersey for the purpose of regulating and fixing the price of glucose and grape sugar, controlling the output, closing several of the factories, eliminating competition and thus creating an unlawful monopoly in the glucose industry. It was further alleged and proven that the outgoing companies had bound themselves not to engage in the manufacture of glucose within a radius of 1,500 miles of Chicago, and as this covered the entire corn belt, it was in fact a contract in entire restraint of trade. The alleged facts as to the formation of the trust were admitted by the defendants to be true, but they relied mainly on the contention that as Harding and his co-plaintiffs were stockholders in a New Jersey corporation they were bound by New Jersey laws and therefore had no standing in an Illinois court. The lower court had ruled against the plaintiffs on this point. The Supreme Court rules for the plaintiffs on practically every point; reverses the decree of the court below, with directions to enter a decree setting aside all deeds, assignments, contracts and other instruments constituting or accompanying the attempted conveyance and delivery of the Peoria plant and business of the American Glucose Company to the trust known as the Glucose Sugar Refining Company, and "to grant such other and further relief as is consistent with the prayer of the bill and as is sustained by the evidence already on record."

The defense claimed that because the American Glucose Company was organized in New Jersey a bill in the Illinois court would not lie. Regarding this proposition the court says whenever a foreign corporation comes into Illinois to do business it is subject to all the liabilities, restrictions and duties that are or may be imposed on corporations of like character organized under the general laws of the state, and shall have no other or greater power. It says it is a settled doctrine of this state, estab-

lished by many decisions of the court, that foreign corporations do not come into this state as a matter of legal right, but only by comity. "Foreign corporations," it says, "cannot be permitted to come into this state for the purpose of asserting rights in contravention of our law."

The preponderance of opinion among leading and disinterested lawyers, who have publicly expressed their views, is that this decision constitutes a distinct and very important step in the solution of the trust question. They consider its significance to be two-fold in that, (1) it brands with illegality as against public policy, and in this case also as violative of the Illinois anti-trust statute the present form of trust whereby a single large corporation, formed for the purpose, buys up all or nearly all the plants of an industry for the purpose, or with the result, of suppressing competition and thereby creating a virtual monopoly. Hitherto this final form of trust has been considered by those interested in the trust system as legally unassailable. (2) The decision indicates with apparent certainty the attitude of the judicial mind generally toward these modern monopoly organizations. In this double view, it is held, the importance of the decision can scarcely be overestimated. The pronouncements of the court are so fundamental, sweeping and emphatic as to leave no doubt as to what its course would be in any other or future case involving the question of the inherent and necessary illegality of any trust organized upon the lines of the Glucose Sugar Refining Company. In the course of the opinion the Court uses this language:

"A question of law which arises in the case is whether the facts set up in the bill constitute an illegal trust. The public policy of the State of Illinois has always been against trusts and combinations organized for the purpose of suppressing competition and creating monopoly. It makes no difference that the agreement for the illegal combination is not a formal written agreement. It may be a verbal agreement or understanding or a scheme not embodied in writing, but evidenced by the action of the parties. If the transactions referred to in the bill in this case did not amount to an absolute agreement made in advance between the six corporations they at least constituted a scheme understood by all the corporations and participated in by them all. The carrying out of the scheme would necessarily result in suppressing competition in the manufacture of glucose and in the creation of a monopoly in that business."

The leading journals of Chicago attach the greatest importance to the decision. The "Times-Herald" editorially says:

"The unanimous decision of the Illinois Supreme Court in the Glucose Trust case is of the highest significance. It answers, so far

as this state is concerned, a question of the greatest moment and practical importance. It deals with the latest, newest form of combination—a form which many have supposed to be beyond danger of successful legal attack. The kind of combination which the Supreme Court of Illinois now pronounces as unlawful and injurious to the public welfare as were the kinds previously attempted was held legitimate and proper in a New Jersey decision rendered a few months ago. It is safe to say, however, that the tribunals of other states will follow the law of Illinois as now laid down and interpreted rather than the law of New Jersey. * * * The striking feature of the case is the emphatic declaration that the 'new' form of combination, based on the alleged right to buy and sell corporate assets, is unlawful in Illinois."

The serious view taken of the decision in financial centers is indicated by the following extracts from an editorial in "The Outlook" for November 4:

"The decision of the Supreme Court of Illinois in the Glucose case shows that combinations of competing factories may often be prevented as easily as combinations of competing banks.* * * As Illinois forms a large part of the "corn belt," in which alone glucose can be successfully manufactured, and as the decision declares null and void the transfer by sale of any Illinois factory to the National combination, the blow administered to the trust is of far-reaching importance. * * * The decision of the Illinois court seems to preclude the establishment of a monopoly for some time to come. The magnitude of the victory for anti-trust legislation is so great that friends as well as foes hesitate in estimating its effects until they learn whether it is to be followed by other decisions requiring the release of the property of similar trusts to the corporations and firms originally controlling them."

President C. H. Matthiessen of the Glucose Trust (the Glucose Sugar Refining Company) says in an interview:

"There has been such confusion in the public mind about the decision and its effect on this company that a word or two is not out of place. If the final court of review stands by the opinion just delivered, this company will cheerfully conform its course along the lines which the highest court shall direct. Courts do not destroy property and where the court holds that certain methods are contrary to statute, it has been, and I believe will always be, that the parties in interest are permitted to conform to the court's requirements without sacrificing or destroying corporate property or stockholders' interests. If finally the decision in the Harding case stands, the proper steps to protect the interests of the company and its stockholders can and will be promptly and decisively taken."

CONCERT WITHOUT COMPACT UPHELD.

The following memorandum of a very recent and leading case (Post et al. vs. Southern Railway Company, Supreme Court of Tennessee, April Term, 1899; opinion filed May 27, 1899) has especial significance for the conservative attitude taken by the highest court of a state, whose legislature has enacted one of the most severe of anti-trust laws, for the respectful frankness of its comment on the opinions of the United States Supreme Court in the notable Trans-Missouri and Traffic Association railroad cases herein cited, and for the well-reasoned approval it gives to the suggestions of the latter tribunal to the effect that excessive competition may be lawfully and honorably avoided and trusts dispensed with by concert of action without compact among competitors.

The main point at issue in this case was the claimed right of a shipper of through freight at through rates to designate the particular route of such shipment beyond the line of the initial or receiving carrier. While deciding adversely to such claim, the court had occasion to pass upon the following collateral question:

A Conference of Competitors.—It was claimed by the complaining shippers that at a meeting of railway and packet company representatives, participated in by the Southern Railway Company and held in New Orleans prior to the bringing of this suit, an agreement to fix and maintain transportation rates was entered into of a nature violative of the act of Congress of July 2, 1890, commonly known as the Sherman Anti-trust Law, and injurious to the complainants as shippers. The court said: "It appears that prominent representatives of all the leading lines of railroad entering Memphis, and of one packet line, attended this meeting at New Orleans, which was formally held with a chairman and secretary. It is said on one hand that a binding contract was entered into between the several parties to do several things and pursue certain policies; while, on the other hand, it is said there was no binding contract that could be legally enforced entered into, but that the several individuals for their companies outlined the course his company would pursue."

The opinion then quotes the minutes of the proceedings of the meeting, from which it appears that, presumably after a general oral interchange of views, each representative of a separate transportation line successively announced the course which his company would pursue concerning the shipment of export cotton out of Memphis, the common competing point for all the lines. Among other details each announced that his company would not "cut unlawfully or secretly reduce, in any way whatever, its published tariff rates on cotton from Memphis destined to points within the United States and Canada;" also that each would "control the route of its cotton from Memphis to foreign ports." When all had been heard it proved that each had made the same announcement as all the others. A supplementary announcement was made by each representative in like manner to the effect that his company "would limit its carrying of the cotton from and passing through Memphis from September 1, 1898, to August 31, 1899, to—per cent."

The several percentages or proportions thus separately announced

aggregated 100 per cent, or the whole of such traffic. No penalty or forfeiture of any nature was mentioned or implied, but each announcement contained the item that the company making it "will give ten days' notice in advance of any change in its policy." Subsequently the vice-president of the Missouri Pacific Railway, which was not represented at the meeting, made a similar announcement for his road.

First calling attention to the fact that even if the action in New Orleans was obnoxious to the Federal anti-trust statute, remedial proceedings could only be brought by the United States through the proper United States District Attorney on the authority of the United States Attorney-General, the court proceeded ot express its opinion of the action at that meeting. Changing slightly the order of paragraphs, the language of the opinion is in part as follows: "We are of the opinion the action taken in New Orleans was not in violation of the provisions of the act of July 2, 1890, known as the Sherman Anti-trust Law. * * * It is sufficient to say that we do not find from the record that the proceedings at New Orleans took the shape of an actual contract, capable of legal enforcement by either party, but it was a simultaneous declaration of the same policy which had already been practiced by each company, and this declaration by each was made in and for the consideration of the fact that rates had already been fixed by the keenest competition. * * * We think the maintenance of uniform, reasonable rates a matter of the highest importance to both shippers and carriers, and on the other hand the prevention of cut rates and discrimination is equally important to both. The carrier is worthy of his hire, that is, to receive reasonable compensation for his services and risk. While the shipper is entitled, in the first place, to reasonable rates for the service rendered him, and in the next place, to have the same rates, no more, no less, than other shippers, so, the shipper is not entitled to receive, nor the carrier to give, directly or indirectly, rebates and concessions to some which are not given to others."

After quoting with satisfaction the utterance of the United States Supreme Court in the Joint Traffic Association case as to the propriety of harmonious action with reasonable rates, by competitors, without contract, the court says: "In order to obtain relief in courts of equity, it must appear, not simply that there is a concert of action [among natural competitors], but that its direct and immediate effect is to restrain commerce and trade, and not merely that it may be hereafter used for that purpose by a departure from its present purposes and practices, and there need be some special ground for equitable interference. * * * Now, if it had been made to appear that in consequence and as a result of this declaration or agreement [at the New Orleans meeting] rates had advanced, or any injury had resulted, or any shipper had been prejudiced, or that such was the purpose of the declaration or its direct and immediate result, it would have been clearly illegal, and an attempt to execute and enforce it could by a proper proceeding have been prevented, but if the declaration was simply an expression of a right which the carriers had without such declaration, and not made for an illegal purpose, and did not operate prejudicially to shippers, such declaration would not be unlawful."

SUPREME COURT OF MICHIGAN ON MONOPOLIES.

In the case of Richardson vs. Buhl (the Diamond Match Case), the Supreme Court of Michigan said:

Monopoly in trade or in any kind of business in this country is odious to our form of government. It is sometimes permitted to aid the government in carrying on a great public enterprise or public work, under government control, in the interest of the public. Its tendency is, however, destructive of free institutions and repugnant to the instincts of a free people, and contrary to the whole scope and spirit of the federal constitution, and is not allowed to exist under express provisions in several of our state constitutions. Indeed, it is doubtful if free government can long exist in a country where such enormous amounts of money are allowed to be accumulated in the vaults of corporations to be used at discretion in controlling the property and business of the country, against the interest of the public and that of the people, for the personal gain and aggrandizement of a few individuals. It is always destructive of individual right, and of that free competition which is the life of business, and it invites and perpetuates one of the great injuries which it was the object of the framers of our form of government to eradicate and prevent. It is alike destructive to both individual enterprise and individual prosperity, whether conferred upon corporations or individuals, and, therefore, public policy is and ought to be, as well as public sentiment, against it. All combinations among persons or corporations for the purpose of raising or controlling the prices of merchandise, or of any of the necessaries of life, are monopolies and intolerable, and ought to receive the condemnation of all courts.

ILLEGALITY OF THE SINGLE CORPORATION TRUST.

Charles Fisk Beach, Sr., in his Standard Work, "Monopolies and Industrial Trusts" (1898), says, under the head of Trust Combinations:

The decisions and legislation adverse to the "trust" proper have led to a variety of combinations which are of the nature of a trust, but are designed to conform to the requirements of the law. The design of these combinations is to secure the ends answered by the trust, while avoiding the methods which have rendered the trusts illegal as in contravention of public policy and void. But the numerous schemes of this character have not been largely successful; as the ends sought are essentially illegal, condemnation is not escaped by a change of methods. These combinations appear under a variety of forms. But whatever phase they may assume, the object is to suppress competition, or to regulate the production and sale of some article of necessity or of some commodity that is in general use.

LABOR COMBINATIONS AND COURTS.

The United States Supreme Court, in deciding the Debs case (in re Debs, 158 U. S. 564), said:

The right of any laborer or of any number of laborers to quit work was not challenged. The scope and purpose of the bill was only to restrain forcible obstructions of the highways along which interstate commerce traveled and the mails are carried, and the facts set forth at length are only those facts which tended to show that the defendants were engaged in such obstructions. A most earnest and eloquent appeal was made to us in eulogy of the heroic spirit of those who threw up their employment, and gave up their means of earning a livelihood, not in defense of their own rights, but in sympathy for and to assist others whom they believed to be wronged. We yield to none in our admiration of any act of heroism or self-sacrifice, but we may be permitted to add that it is a lesson which cannot be learned too soon or too thoroughly, that under this government of, and by the people, the means of redress of all wrongs are through the courts and at the ballot box, and that no wrong, real or fancied, carries with it legal warrant to invite as a means of redress the co-operation of a mob with its accompanying acts of violence.

And the Supreme Court of Virginia, in deciding the case Crump vs. Commonwealth, 84 Va. 927,941, said:

It matters little what the means adopted by combinations formed to intimidate employers or to coerce other journeymen if the design or the effect of them is to interfere with the rights or to control the free action of others. No one has a right to be hedged in and protected from competition in business; but he has a right to be free from wanton, malicious and insolent interference, disturbance or annoyance. Every man has a right to work for whom he pleases, and for any price he can obtain; and he has a right to deal with and associate with whom he chooses; or to let severely alone, arbitrarily and contemptuously, if he will, anybody and everybody upon earth. But this freedom of uncontrolled and unchallenged self-will does not give or imply a right, either by himself or in combination with others, to disturb, injure or obstruct another, either directly or indirectly, in his lawful business or occupation, or in his peace and security of life. Every attempt, by force, threat, or intimidation, to deter or control an employer in the determination of whom he will employ or what wages he will pay is an act of wrong and oppression; and any and every combination for such a purpose is an unlawful conspiracy. The law will protect the victim and punish the movers of any such combination. In law the offense is the combination for the unlawful purpose, and no overt act is necessary to constitute it. * * * A wanton, unprovoked interference by a combination of many with the business of another for the purpose of constraining that other to discharge faithful and long tried servants, or to employ whom he does not wish or will to employ (an interference intended to produce, and likely to produce, annoyance and loss to that businesas) will be restrained and punished by the criminal law as oppressive to the individual, injurious to the prosperity of the community, and subversive of the peace and good order of society.

CHAPTER VII.

THE STANDARD OIL TRUST.

Historical Sketch and Defense—Origin and Development—Purposes of Its Founders—Methods Pursued and Results Accomplished—Discriminating Railroad Rates—Treatment of Competitors—Improvement and Cheapening of Product—Editorial Comment—The Marietta Transportation Episode—Some Conclusions.

At the request of the editor Mr. S. C. T. Dodd, solicitor of the Standard Oil Trust, has furnished for the present use a very full historical sketch and a defense of that well advertised concern, a careful synopsis of which follows. Most of the material was used by Mr. Dodd on a former occasion but facts are added bringing it down to date. It is believed that such an authentic statement from the legal representative of the greatest of the trusts will have value. Where facts are stated as such they are unquestionably trustworthy. Where opinions or conclusions are given each reader will make his own allowance for the naturally favorable bias of the author. Mr. Dodd prefaces his sketch with some general comments upon the subject of trade combinations which are of interest. For example:

Of Trade Combinations Generally.—"Whatever else may be said of combinations of railroads, telegraph lines, and manufacturing companies, statistics will show that increased trade and lower prices follow as an almost inevitable result. I shall show that so far from the Standard Oil combination being an exception, it can exhibit an increased trade and reduction in prices as a result of combination to an almost unprecedented extent.* * * It is assumed, in all attacks upon combinations, that their purpose and end is to reduce supplies and increase prices or in some similar way to injure the public. There is no charge made against combinations which has so little foundation as this. It is the very reverse of the truth. Take the statistics of any important business for the past twenty years and it will be found that the effects of large combinations have been to increase trade, decrease prices and to benefit the public. * * * No legis-

lature can interfere with freedom of combination for legitimate purposes without striking trade and commerce prostrate at its feet. The right of association must be free; the magnitude of association must correspond with the magnitude of the business to be done; business can no longer be localized; it cannot be confined by state lines; when the problem is to open and keep open the markets of the world, it is sheer madness to attempt to restrict the business as that of a local manufacturer may be restricted.

"* * * When I speak of unrestricted combinations I do not mean that combination should be allowed under all circumstances and for all purposes. While combination is not per se evil, its purpose may be. The law is possibly our best guide on this subject. It has progressed as experience and the necessities of business required, from the idea that all combinations were wrong to the idea that all persons should be left free to combine for all legitimate purposes. To this day, however, the law is properly very jealous of certain classes of combinations, such as (1) where the parties combining exercise a public employment, or possess exclusive privileges, and are to that extent monopolies; (2) where the purpose and effect of the combination is to 'corner' any article necessary to the public; (3) where the purpose and effect of a combination is to limit production and thereby to unduly enhance prices; these things are illegal and properly so. The mistake of writers on trusts and combinations consists in assuming that all combinations are for such purposes, whereas the purpose and effect of most combinations is just the reverse of this, namely, to lessen the cost of production, increase the amount of consumption, and distance competitors by selling at less prices. * * * The well-known Coal cases and the Salt cases were arrangements with the direct and avowed purpose of destroying all competition, diminishing supplies and raising prices. These things are just as unlawful without combination as with it. In other words, the evil is not in combination but in its purposes and results.

"* * * In reviewing the history of the Standard combination, I expect to demonstrate (1) that the necessities of the business demanded association on a large scale; (2) that the business has always been competitive both at home and abroad; (3) that the combination has constantly cheapened manufacture and improved the manufactured products; (4) that it has increased the demand and diminished prices to an extent unparalleled in any other business; (5) that, in short, it has furnished oil at the lowest possible prices at home and built up an American trade of $50,000,000 a year abroad, which it maintains against the fiercest competition," [from the Russian oil fields.]

HISTORICAL SKETCH—ORIGINAL ALLIANCE, 1872.

For some time after the discovery of petroleum in 1859, the crude article was simply distilled, and the result was a product both unsatisfactory and dangerous in use. Improvements were gradually made, several new products discovered, hundreds of patents obtained and hundreds of refineries were established in the oil region.

The latter were almost invariably cheap and small. In the larger cities more extensive refineries were built, with more expensive and complete equipments of machinery. All the refineries were competitive, and although for a time the business prospered, yet for many years the history of the refining business was, for the most part, one of disaster, failure and bankruptcy. Until 1872 the price of oil was above 25 cents per gallon. At times it sold as high as 50 cents; still refiners on the whole made little money. Now a fair profit is made on oil selling at 7 cents per gallon, and the quality is far better. This result has largely been accomplished through the efforts of the Standard Oil Combination.

The Standard Oil Company of Ohio, with a capital of $1,000,000 was organized in 1870. It was one of several wholly independent corporations formed to engage in the relatively new and undeveloped business. Another Standard Oil Company had previously been organized in Pittsburg, by other parties, and was doing a large business. The other leading independent concerns were the Cleveland Standard Refinery, The Pittsburg Refinery, the Atlantic Refining Company, of Philadelphia, and Charles Pratt & Company of New York. Owing to the disastrous history and condition of the business and its hazardous nature, these companies in 1872 entered into an alliance and this alliance formed the basis of the subsequent Standard Oil Trust. This combination was not an unusual thing. Refiners' combinations, of greater or less extent, had been previously formed, but all were short-lived. The cost of packages and transportation had been an important factor in ruining the business. At first oil was barreled at the wells and hauled in wagons to the railroads. Later on, the underground pipe-line system was adopted, but even up to 1872 it cost 50 cents to transport a barrel of oil ten miles by pipe-line. Railroad rates were excessive and lacking in uniformity. When refiners were able to combine and throw a large volume of business to any particular road they could get favorable railroad rates. Those who could not do this got such rates as they could. The rebate and drawback system was then universal, and was not confined to oil. Undoubtedly this fact had much to do with the combination of refiners above referred to, and which came to be known as the Standard. But it was by no means the only reason. The men in control of that combination foresaw that a business which had thus far been disastrous would require co-operation on a large scale and for several reasons.

Purposes of its Founders.—Without assuming that they foresaw clearly all the results of their combination, yet judging from what has been accomplished, their purposes may be stated thus:

1. To cheapen the cost of transportation, both local and to the seaboard by perfecting and extending the pipe-line system; by constructing and supplying cars by which oil might be shipped in bulk at less cost than in packages, and the cost of packages be also saved; by building tanks in which oil could be stored in bulk; by purchasing and perfecting terminal facilities for receiving, handling and re-shipping oils; by purchasing or building steam-tugs and lighters for harbor and river service; by building wharves, docks and warehouses for foreign shipment.

2. To manufacture a better illuminant at less cost by combining the knowledge, experience and skill of all the parties to the combination, as well as their various secret processes and their patents, and by building up manufactories on a more extensive and perfect scale with the latest improvements in machinery and appliances. To unite with the business of refining, the collateral business of manufacturing barrels, tin cans, boxes for enclosing cans, paint, glue and sulphuric acid, and to cheapen these necessary materials by producing them on a large scale with the best machinery; to obtain and employ the best scientific skill in investigating and experimenting upon the best methods of obtaining new and useful products from petroleum, and to cheapen illuminating oils by obtaining profits from these by-products; to employ agents and send them throughout the world to open up new markets, learn the cheapest and best methods of supplying them, and to convince the people of all lands of the cheapness and safety of petroleum oils; finally, by all these means to increase the supply of oil products and lessen their price to consumers generally.

All these things the Standard Combination has been doing through all the years that have followed its organization. To accomplish these great purposes combination was absolutely indispensable. No one man or corporation could have accomplished it. It meant millions of money. The pipe-line and storage system alone required $30,000,000.

FORMATION OF THE STANDARD TRUST.

The associated corporations engaged in refining carried on the business for nine years without any further consolidation. It was a union, not of corporations, but of their stockholders. The several companies continued to conduct their business as before. They ceased to be competitive with each other in the sense of striving to undersell each other. They continued to be competitors in the sense that each strove to show at the end of each year the best results in making the best products at the least cost. From time to time new persons and additional capital were taken into this association. Whenever and wherever a man showed himself skillful and useful in any branch of the business he was sought after. As business increased new corporations were formed in various states, in the same interest, some as trading companies, others as manufacturing companies.

Then, for convenience of control and management the Standard Oil Trust was formed. It was simply an agreement placing all of the stock of these various companies in the hands of trustees, declaring the terms on which they were held and providing for the issuance of a certificate showing the amount of each owner's interest in the stock so held in trust. This agreement did not in any essential manner change the nature of the association previously existing. Its essential character was simply a common ownership of stock in various corporations. If they had so preferred, the owners of these several associated companies could have organized, in the state of New York, for example, with any capitalization desired, each could

then have lawfully combined with all of the other companies, forming one corporation to transact business wherever desired. But it seemed preferable instead of organizing one corporation in New York, to organize a corporation in each state where business was being carried on, so that the business transacted in each state might be conducted by a home corporation subject, in all respects, to the law of the state where located. Accordingly we organized a Standard Oil Company in New York, in New Jersey, in Kentucky, in Iowa, in Minnesota, and similar corporations already existed in Ohio and Pennsylvania. The business of each state was thus, as far as possible, transacted by a corporation organized under the laws of that state, subject to its jurisdiction, paying taxes there, and usually officered by citizens and residents of the state. If this government were a unit instead of a federation of states, there probably would have been no Standard Oil Trust.

Increased Product and Lowered Prices.—Bearing in mind that oil was discovered in 1859, the co-operation or combination of refiners above referred to began in 1872, and the Standard Oil Trust was organized in 1881, in 1870 the production of oil was about 5,000,000 barrels, and the consumption about equal; price of crude oil at the well, $3.86 per barrel; price of export oil in New York, barrel included, $11 per barrel. At the close of 1881 the consumption of oil had increased to over 19,000,000 barrels per year; the price of export oil at New York had decreased to about $3.36, which, estimating the package at $1.50 per barrel, leaves $1.86 as the price per barrel of the oil and yet the value of the exports amounted to over $40,000,000, showing an enormous increase in the trade.

Notwithstanding the wonderful decrease in the price and increase in the output up to this time, the decrease in price and increase in supply did not cease. At the close of 1887, six years after the creation of the trust, the supply to the markets had increased to over 26½ million barrels of 42 gallons each per year; the price of crude material reduced to an average of 66.66 cents per barrel, and the price of 110° "Standard White" to $2.81 per barrel of 50 gallons, including the barrel; and notwithstanding the almost nominal price of the oil the value of exported products reached the enormous sum of $46,824,933. These figures speak for the Standard Oil Company as nothing else could do. It has been said that decrease in price of refined products is wholly in consequence of the decline in price of crude oil. But look at the figures: In 1872 crude oil was 9.43 cents per gallon, and refined 23.59 cents per gallon. In 1887 crude oil was 1.59 cents per gallon, or 7.84 cents less than in 1872. Had refined products been reduced only to the same extent it would have been 15.75 cents per gallon in 1887; but it was only 6.72 cents per gallon. The difference, 9.03 cents per gallon, represents the reduction in price of the refined product after eliminating the effect of the decline in crude oil. The prices of all other products of petroleum were reduced in the same proportion and as over one thousand million of gallons of the crude oil were consumed in 1887 this reduction in the cost of refined products after the allowance for the reduction in the crude benefited the public to the extent of about $100,000,000 for that single year. For this the Standard claims its due proportion of credit.

Cheapening of Transportation.—In 1872 the pipe-line system was in its infancy. A number of local lines existed. Their service was inefficient and expensive. There was no uniform rate. The United Refiners undertook to unite and systematize this business. They purchased and consolidated various little companies into what was long known as The United Pipe-Line System. The first effect of this combination was a reduction of prices of all local transportation to a uniform rate at first of 30 and soon after of 20 cents per barrel. The pipes were placed at every well. A storage system was also adopted. Great iron tanks were built in which oil could be stored on the way to market. The cost of storage has been reduced until it is now cheaper than for any other commodity. Certificates were given to all producers, showing the amount of oil stored by each and these certificates have become practically as current as money and are dealt in at the New York Stock Exchange.

The benefit to the oil trade from these improvements has been incalculable. Instead of the Standard being the sole buyer, the buyers are numbered by thousands. The producer not only gets the highest price which competition in purchase will bring, be gets also cash in hand.

The figures show that in one year the production of oil exceeded 31,000,000 barrels, or 9,000,000 barrels in excess of consumption. Consider what this means. Every day of that year iron tankage had to be built to accommodate 25,000 barrels of surplus oil. This meant an army of iron workers and tank builders, at a cost per day of $7,500. Without aggregated capital, without combination of money and effort how could all this have been done?

About 1879 it was discovered that the railways were inadequate to the task of getting the oil to the seaboard as rapidly as shipped. Combined energy and capital alone were equal to the emergency. To-day there reach from Pennsylvania and New York to the cities iron pipes conducting the oil as it comes from the wells. Two such pipe lines reach New York harbor with a capacity of 25,000 barrels per day. There is one such line to each of the cities of Philadelphia, Baltimore, Cleveland and Pittsburg, built by the Standard Oil Combination at a cost of millions and doing business for the public.

Discriminating Railroad Rates.—The one burden of charges against the Standard is that it has received special rates from the railroads which enabled it to distance its competitors. There is more ground for this than for any other charge made against the Standard Oil Trust. The necessity in some way of improving and cheapening transportation was a strong inducement to the original combination. There were competing roads and it was found that those who could ship in large and uniform quantities could have special rates. It was then the universal mode of business. The man who could not avail himself of it might as well retire from business. The Standard availed itself of this mode of business. It could furnish the railroads with, not carloads but train loads of oil. Also it built loading stations and loaded trains by its own labor. It built terminal stations where it received and unloaded trains itself. It became its own insurer and released railroads from any obligations for damages. It found that the country had not white oak forests

enough to furnish material for making barrels for all the oil to be shipped, and it experimented on car after car for carrying in bulk. When the proper car was furnished it constructed thousands and placed them on the railroads. For these services it demanded and obtained low and lower rates. It is true the Standard often got a special rate. The railroads refused to carry oil for the same prices for those who shipped in packages, carloads or less than carload lots, who did not do their own loading or unloading or furnish their own cars or terminal facilities.

The Interstate Commerce Commission has now decided that every pound of oil is entitled, whether carried in barrels or in bulk, to reach the market at equal rates. This is founded on the modern idea that energy and enterprise and capital are not entitled to advantage in competition. The race is not to the swift nor the battle to the strong. Controlled by such ideas there is no benefit to the public. All are placed on a dead level. The unfittest as well as the fittest survive. Whether this is or is not the correct principle, the result is to-day that all shippers by all modes are charged the same rate per pound.

Cheapening the Cost of Manufacture.—The Association of Refiners united the best knowledge and skill in the business. If one had a patent it was open to all. If one had a secret the others shared it. Methods were compared. New plans were tested. Results were and are carefully collated. If one establishment succeeds in saving the fraction of a cent per barrel in making oil the reason is known and the method of saving adopted. If good results are obtained in one manufactory and bad results in another, the reason is at once discovered and faults corrected. Scientific men are constantly employed who have made useful discoveries in new products and new methods of manufacture. The consequence of all this is that since 1872 the actual cost of manufacture of refined oil has been reduced 66 per cent. The public have the advantage of this in the reduced price at which the oil is sold, which benefit amounts to millions annually.

The same cheapening of cost, has taken place in the manufacture in our own factories of barrels, tin cans, boxes for enclosing cans, paint, glue and acid. In 1872 barrels cost the trade $2.35. They now cost us $1.25, representing a yearly saving of $4,000,000. Cans then cost 30 cents each, now 15 cents, making a saving of $5,400,000 a year. In 1874 wooden cases cost 20 cents each, now 13 cents, or a saving of $1,250,000 a year. A like cheapening has taken place in the manufacture of tanks, pumps and everything used in the business. All these millions are saved by economies which combinations of persons, capital, experience and skill render possible, without reducing the wages of a single laboring man.

By-Products of Petroleum.—After illuminating oil is manufactured from the crude petroleum, a large residuum is left. Up to 1875 this was almost exclusively used as fuel at the refineries. The Standard devoted special attention to this residuum, sending experts to the shale works of Scotland, and prosecuting exhaustive investigations on all lines. As a consequence, extensive works were erected for the manufacture of products from this residuum, principally

lubricating oils and paraffin wax. These works are extensive and manufacture the residuum of a large number of refineries. Small refineries cannot advantageously engage in this branch of business and cannot afford to manufacture illuminating oils unless they can dispose of their residuum. This is one of the reasons why so many small refineries prove failures. The cost of manufacture of lubricating oils and wax has been reduced by improved methods and constant attention, and the price to the consumer has been constantly reduced, averaging to-day 50 per cent less than in 1878. Illuminating oils were introduced to the public with comparative ease because they met an urgent need, but lubricating oils were slow of recognition, having to supplant sperm, lard and fish oils, and in Europe the products of shale had to be competed with.

Opening New Markets.—To bring consumption up to the level of the enormous production, something besides good quality and cheapness was necessary; new markets had to be opened. When the Standard combination was formed twelve years had elapsed and the world was using less than six million barrels per annum, and of that three and a half million barrels were exported. In two years afterwards the exports were nearly six million barrels. The reason for this remarkable change was that no single refinery could afford to keep agents in Europe to demonstrate the advantages of this product, obtain the means for its convenient and safe transshipment and force it upon the trade. The refineries when combined could do it, did do it and continue to do it. The consequence is that petroleum is to-day the peoples' light throughout the world. It is carried wherever a wheel can roll or a camel's hoof be planted.

The Great Russian Competition.—The development of the great oil fields on the shores of the Caspian Sea began about 1872 when the oil lands passed into private hands. In 1879, 195 refineries existed with a capacity of 1,400,000 barrels annually. It was then recognized that combinations of men and capital were necessary to make success in the business and Nobel of Paris put in $2,500,000. All of American experience was utilized; pipe-lines built, 2,500 tank cars placed on the railroads, large stationary tanks, warehouses and docks were erected, ships constructed carrying oil in bulk, and case and can factories were established. In a word, Standard Oil enterprise and methods were closely imitated along the shores of the Caspian. Since that date Russian competition has to be fought in every portion of the Eastern Hemisphere. Russian oil is sold in American packages under American trademarks. The crude product is cheaper than water, varying from two to six cents per barrel. It is rich in lubricating oils of a good quality. Its refuse is used for fuel on the ships which transport it. The Rothschilds have taken hold of the business. Enlarged capital and energy have been enlisted. These must be met with enlarged capital and energy or our foreign trade of 50 millions annually will be greatly impaired. Had this matter been left to individuals to be met without combination or unity of effort, Russia to-day would control all the markets of the east. Pass a law that persons in the same business cannot agree upon prices or co-operate in their business and in five years instead of the annual income of $50,000,000 from oil exports, you will not have

$10,000,000. Without the pipe-line system, the cheap transportation, and the improvements herein mentioned, the markets of Europe and Asia could not be held against Russia for a single year.

Causes of Criticism.—Such is briefly the history of the rise, progress and results of the business of the United Refineries, popularly known for many years as the Standard Oil Company and later as the Standard Oil Trust. In relation to the companies represented in this union, they have been guilty of no stock jobbing and no watering of stock; no creditor has suffered; their business obligations are strictly fulfilled; labor is amply rewarded and it has an unparalleled record of satisfactory relations with its army of 25,000 employes. What then are the causes which have led to the popular opinion that the Standard Oil Trust is a gigantic monopoly which must be crushed? (1) The principal reason is at present that there is in the air a socialistic prejudice against capital. (2) On account of its aggregation of large capital the Standard serves as a type, in the public estimation, of a modern monopoly crushing out all competition. It is not and never has been a monopoly in any sense of the word. It does not possess a single exclusive franchise or special privilege. All the corporate privileges it possesses are open to all persons and may be obtained by simply making and filing a paper stating a desire to be incorporated.

Neither has the Standard destroyed competition. In 1872, the date of the inception of this union of refiners, the total amount of crude oil refined was about five and a half million barrels annually. Of this business the refiners who ultimately became associated in the Standard Trust did by far the greater proportion. Competition at home and abroad has never ceased for a single instant and has always been strong enough to give the public all the advantages which competition confers. Now, in 1899, of the total amount of oil refined in the United States, companies which are in competition with the Standard do 17.7 per cent.

All the competing refineries have benefited by the Standard's efforts at improvement and by its money expended in the establishing of markets. Many refineries have failed. Competition has simply moved to a higher plane. Those who could not or would not follow business in its new lines could not succeed. Thousands of those who enter the business are doomed to failure no matter what the circumstances; no refiner has failed without damning the Standard.

Referring again to the complaints against the Standard, and their contradictory character—one is, in effect, that the Standard sold its products so low, kept the margin between crude and refined oils so close that competitors could not make money and were crushed out; the other was that the Standard sold too high and made too much money. Both views cannot be true. The fact undoubtedly lies between the two. The Standard's methods of business have been such that it could sell oil products at figures too low for many competitors and still make a fair profit for itself. If those methods of business are justifiable which secure the greatest good to the greatest number, this surely cannot be condemned.

Another reason for the popular protest against the Standard arises from the complaints of oil producers or well-owners for many

years that the Standard for its own purposes kept down the price of crude oil. On the contrary the storage and certificate system by which the producers sell their oil on exchanges to thousands of buyers instead of a few must have tended to better prices. That system was adopted and maintained at the request of producers and without it their business could not be carried on. All the Standard's efforts above recorded to cheapen manufacture and transportation and force products on home and foreign markets must have greatly benefited oil producers. With forty million barrels of surplus stock in tank how could good prices be expected?

But it is said that the Standard has speculated in these certificates and sent the market up or down as it wished. This is emphatically denied. It has not speculated. It has purchased what it needed and used what it purchased. It has bought largely at times to save the market from absolute ruin, and for some years, for like reasons, has carried a large part of the stock of oil at a loss to itself of millions.

Public statistics show that the price of crude oil has been generally governed by the law of supply and demand. Speculation has made the public buyers and held prices somewhat higher than they would otherwise have been. At times speculation may have depressed prices. But the average tells the story. All now admit that overproduction has caused all the trouble The oil producer now knows and admits that his charges against the Standard in 1878 and many subsequent years were baseless and unjust. But the influence of those unjust charges and the accompanying public excitement is prejudicing the public to-day as the waves caused by a storm at sea will fret distant shores long after the storm is over.

Mr. Dodd closes his statement as follows:

"I have dwelt at length upon the history of the Standard because it is always referred to as embodying all the evils of combinations and trusts. And yet the facts show that it, or some similar combination of persons and capital, was and is essential to the building up and maintenance of the American oil trade; that its destruction would be the destruction of that trade; that it has furnished the producer a cash market and the best possible price for his oil, and that it is benefiting the public by actual reduction in cost of manufacture and prices to the extent of more than its aggregated capital each year. Let the state or national legislature provide a better mode for carrying on this business if they can, but let them not despoil the structure until a better is provided to take its place."

COMMENT.

Mr. Dodd presents one side of the shield. Probably the other side would not be so bright. Without entering upon the long and bitter controversy over the vices and virtues of the Standard Oil Trust, this may be said: From Mr. Dodd's statement it is evident that during the years when the Standard was crushing out all formidable competition it availed itself of every lawful advantage, particularly in the matter of transportation. That its

policy against all rivals, and especially the weak ones, was ruthless and unscrupulous to an unprecedented and indefensible degree is charged by the vanquished refiners and their friends and is apparently confirmed by the official records. It is seldom that a secret, unfair and unlawful combine between a railway and a favored shipper is judicially exposed. When one such exposure occurs it is therefore proper to accept the showing as an index to the general policy and the moral standards of the parties involved. This rule applies to the trial of the well-known case at Marietta, Ohio, in 1885, of Parker Handy and John Paten, trustees vs. the Cleveland & Marietta Railroad and others. This case is pretty fully stated from the public records in Prof. Richard T. Ely's "Problems of To-day," page 203, and more fully in Hudson's "Railways and the Republic," under the title, "A Commercial Crime." Briefly, the railroad in question was in the hands of a receiver, P. Pease. The Standard Oil Company owned or controlled pipe lines by means of which it collected and piped the oil procured by it in the vicinity of Macksburg, Ohio, a station on said road, to be carried thence by rail either to Cleveland or Marietta. It thus controlled a large amount of freight, which Receiver Pease was naturally desirous of securing. The Standard Oil Company, through its general manager, O'Day, demanded that the railroad give it a rate of 10 cents per barrel on oil from Macksburg to Marietta, while the rate charged all other refiners at that time was 17½ cents. This demand was accompanied with the intimation that the Standard would lay a pipe line from Macksburg to Marietta if the discriminating rate was not conceded. The receiver granted the 10-cent rate, thus giving to the Standard an advantage of 75 per cent in transportation charges over all its competitors at Marietta. But this was only the beginning. The next chapter is best told in the language of Receiver Pease, in his letter to Edward S. Rapallo, general counsel for the receiver, 32 Nassau street, New York, under date of February 25, 1885. The next demand of the Standard was so extraordinary that the receiver, being practically an officer of the court, felt bound to fortify himself with a legal opinion before yielding. In the course of his letter to Rapallo he says:

"Mr. O'Day, manager of the Standard Oil Company, met the general freight agent of the W. & L. E. Railroad and our Mr. Terry at Toledo about February 12, and made an agreement (verbal) for the carrying of their oil at 10 cents per barrel. But Mr. O'Day compelled Mr. Terry to make a 35-cent rate on all other oil going to Marietta, and that he should make the rebate of 25 cents per barrel on all oil shipped by other parties and that the rebate should be paid over to them (The Standard Oil Company) thus giving us 10 cents per barrel for all oil shipped to Marietta, and the rebate of 25

cents per barrel going to the Standard Oil Company, making that company save $25 per day clear money on Mr. Geo. Rice's oil alone."

Mr. Rapallo, under date of March 2, 1885, answered the receiver to the effect that the law would not permit the latter to collect money from one shipper and pay it over to another, but he showed the receiver how he could lawfully reach the same result in the following words:

"You are at liberty to arrange for the payment of a freight by the Standard Oil Company calculated upon the following basis, viz.: Said company to be charged an amount equal to 10 cents per barrel less amount equivalent to 25 cents per barrel for all oil shipped by Rice, the agreement between you and the company thus being that the charge to be paid by them is a certain sum ascertained by such calculation."

The arrangement was made, and of course, resulted in giving the Standard an advantage of more than 300 per cent over their Marietta competitors. The receiver was removed by the court. The Marietta Leader of November 24, 1885, says: "Judge Baxter characterized Rapallo's letter as being 'the most insolent paper he had ever known to be presented to a court.' * * * It is very clear that these enormous discriminations have been disastrous to our city, for the difference in rate against all independent refiners is so great as to about equal their full profits on oil refined, and so their business has been nearly destroyed, except that of Mr. Rice, who was driven to save himself by the construction of a pipe line of his own."

Some opponents of the trust system point to this authentic case and ask (1) what force can "potential competition" have against such an economic bludgeon so wielded? (2) If a concern like the Standard Oil, owned and officered by men as respectable as John D. Rockefeller, is capable of devising and pursuing such a policy, secretly or openly, what may be expected from the new trusts, which, no matter how controlled at first, are pretty sure to fall into the management of the most forceful and least scrupulous of their future owners?

President Hadley, of Yale University, in his latest work, "Economics," page 159, thus characterizes the methods of the Standard and explains the odium encountered by it in a manner quite different from Mr. Dodd's. He says:

"If the managers of a combination make it their chief concern to suppress competition rather than to realize economies in production, their policy toward trade rivals results in violation of commercial morality, if not of commercial law. Not content with obtaining unfair advantages in the way of discriminating rates

for the transportation of its goods, the combination tries to exclude its rivals from their accustomed markets by methods of boycotting and intimidation, which, when they are used by trade unions, provoke fierce denunciation from the same men who have been ready to practice them for their own advantage. Even among those combinations which, like the Standard Oil Company, have realized economies and reduced rates[prices]for their product, this unscrupulous policy toward competitors has been carried to such an extent as to create a just prejudice against them, a prejudice which is enough to explain, and in one sense to justify, the tendency on the part of the public to ignore or depreciate the industrial services which they have actually rendered."

Possibly the American people would willingly have paid a trifle more per gallon for their kerosene and witnessed a less rapid growth of the export oil trade if by that slight sacrifice they could have avoided for themselves and posterity a conspicuous and contagious example in commercial immorality.

Concerning one or two of Mr. Dodd's statements as to the law and the economics of trade combinations, a critical person might make these comments: (1) He says, "The well-known Coal cases and the Salt cases were arrangements with the direct and avowed purpose of destroying all competition. . . . . These things are just as unlawful without combination as with it. In other words, the evil is not in combination, but in its purposes and results." The statement is inaccurate. In order to be contrary to public policy and hence illegal a combination for suppressing competition need not have that "avowed" purpose; the known character, the natural tendency and the results of a course of action are conclusive evidence of its legality or illegality without any avowal of purpose, as instance the Marietta case, cited above. (2) Such a combination or course of action, in order to be illegal, need not in aim or in fact destroy all competition. It is in practice almost never possible literally to destroy all competition in any trade or industry, and it would never be good policy to do so even if possible. It would cost too much in money, in public ill-repute, and in legal peril. Judging the course of action of the Standard by its known character, its natural tendency and its results, that company has pursued a policy which, in Mr. Dodd's words, "is just as unlawful without combination as with," for, so judged, its evident purpose has been to suppress all competition to a point which would give it a virtual monopoly of the oil refining industry in the United States. Which leads to : (3) Mr. Dodd says, "It [the Standard] is not and never has been a monopoly in any sense of the word." Let us see. In 1889 the Standard, on Mr. Dodd's statement, was doing 75 per cent of the refining in the United States. This fact, as every recognized authority will agree, gave

it control of the price "up to the importing point." It also gave the power to eliminate, substantially, not literally, the remaining competition. Every economist will also agree that this state of things constituted a virtual or working monopoly—which is the only kind of monopoly an intelligent business man ever cares or strives for. But this does not close the case; in 1899, also on Mr. Dodd's statement, the Standard is doing 82.3 per cent of American refining. If this does not constitute a practical (and progressive) monopoly in the only possible economic and commercial sense, then economic science will have to be rewritten. Note that the question just here is not whether practical monopolies in private hands are good or bad, but—do they exist, and if so, is the Standard one of them? There is need of clear and candid statement on both sides of the trust question. (4) Finally, while giving full credit to the record of the Standard's business enterprise and competency, it is fair to suggest that practically all of this work of developing the oil business, improving methods, cheapening cost of manufacture, reducing price and improving quality of product would have been accomplished by other American citizens had the founders of the Standard engaged in some wholly different pursuit. To compare present prices with prices when the industry was young and crude means little. The cheapening was inevitable as gravitation. Pipe lines were not originated by the Standard, and nearly all the economies in cooperage and manufacture of cans, cases, etc., mentioned by Mr. Dodd are equally practiced by leading competing refiners. The latter are also supplying oil of the same quality and price as the Standard's product. Professor Ely remarks that the competitors of the Standard have not been vanquished by its superior business ability, but by other and less creditable elements in its conduct of the oil refining business.

CHAPTER VIII.

THE LAW AND THE TRUSTS.

Newness of Trust Legislation and Court Decisions—Attitude of American Judiciary Toward Monopoly—Origin of Our Anti-Trust Laws—Reasons for Their Extreme Provisions—Combination to Compete vs. Combination to Monopolize—The Common Law.

Legislation and judicial decisions directly affecting the modern trusts are naturally as recent in date as is the industrial movement which they are designed to regulate or repress. Only in February, 1887, did Congress take the first formal step to exercise its constitutional power over interstate commerce by passing the measure entitled "An Act to Regulate Commerce," and three years later was enacted the present federal anti-trust law. In 1889 Maine led off in enacting a statute prohibiting such trusts and other trade combinations "as may be contrary to public policy," and that example has now (1899) been followed, with all varieties of scope and vigor, by twenty-seven other states and two territories and by Canada, as will be seen by consulting the synopses of anti-trust laws in this volume. Of those states which have not thus far enacted statutes of this general nature, several have anti-monopoly provisions in their constitutions, and all may have recourse to the principles of the common law applied by their courts to emergencies as they may arise; a resort which seems to have been sufficient for all needs, both of state and nation, prior to the advent of the present trust innovation.

The form of trust which gave the name to the system of quasi-monopolistic organizations now under discussion was first exemplified here by the Standard Oil Trust and is now unlawful and non-existent in the United States. That form was suggested by a similar method of combination employed for a different purpose in England more than a half century ago.

Of both statute law and judicial decisions bearing upon this subject, by far the greater part is to be found on this side of the Atlantic. Two causes account for this fact: First, both the law and public opinion have long been more tolerant of trade combination in various forms in Great Britain than in the United States and Canada. Second, British lawmakers and courts have not been called on to confront and deal with a problem corresponding in kind or magnitude to the present trust problem in the United States. While, on the one hand, English statutes and judicial decisions have been liberal toward those forms of trade combinations and agreements which have appeared to be reasonable as tending to prevent or limit foolish and destructive methods of competition, on the other hand, whatever individuals may have occasionally attempted, the business community in England has never misconstrued that liberality by seeking to do away with the competitive system and establish in its place a system of practical private monopolies.

The broad and enduring basis of legal prohibitions and restraints against the trust is the historic fact that what we know as public policy abhors private monopoly, as nature is said to abhor a vacuum. In every English-speaking country since Anglo-Saxon civilization really took form this proposition has been true. At common law, in all statutes, state and federal, in all sustained judicial decisions treating upon the subject and in the treatises of all recognized law writers, condemnation and reprobation of private monopoly appears as a con-

stant and leading factor. That this attitude of the legislative and judicial mind is in accord with the instincts and judgment of the people and is universal and permanent there can be no doubt. This being true, opponents of the trusts insist that it is only a question of time and detailed method whether any system of private monopoly, partial or complete, will be prevented, or will be overthrown if temporarily established; that if ways do not exist they will be devised or created.

Soon after the Standard Oil Trust reached what may be called its early maturity and developed its peculiar aggressive policy, the possibilities in that direction aroused the apprehensions of the people both in the United States and Canada. In 1888 investigations of the trust problem were ordered by our national House of Representatives, by the Senate of New York and by the Canadian House of Commons. Largely as a result of the testimony taken and the developments made during these investigations, anti-trust legislation was enacted by Congress, by the Dominion of Canada and by many of our states in the years from 1889 to 1899. All these statutes have as a common, central purpose the prevention and punishment of monopoly, approximate or complete, in private hands.

Inasmuch as monopoly in trade is necessarily progressive in its development and may have all gradations of effectiveness, it was inevitable that the legislatures in framing their statutes and the courts in deciding cases should deal not simply with the final culmination of the monopolizing process or with complete monopoly, but should aim their prohibitions at the various measures, steps and intentions tending or leading up to such consummation. Accordingly, nearly all anti-trust laws define a trust to be a combination or conspiracy in restraint of trade or competition. For example, the federal anti-trust act of July 2, 1890, provides that "every contract, combination in the form of trust or otherwise,

or conspiracy in restraint of trade or commerce among the several states or with foreign nations, is hereby declared to be illegal. * * * And every person who shall monopolize, or combine or conspire with any other person or persons to monopolize, any part of the trade or commerce among the several states or with foreign nations shall be deemed guilty of a misdemeanor."

One result of the sweeping language thus employed in the federal and state statutes is that those statutes, by their language, appear to apply to all possible trade combinations which in intent or effect, or to any degree, restrain or limit competition. Obviously this could not have been the purpose of the legislative mind, for there are a thousand ways in which business men every day, and necessarily, make arrangements and agreements which, to some extent, restrain trade and limit competition. If the attempt should be made to prohibit all arrangements of this nature, the wheels of commerce and business of every sort would well-nigh be brought to a standstill. And this is the chief embarrassment attending the enactment and enforcement of all legislation of this nature; an embarrassment which the federal Supreme Court has not escaped, namely, the difficulty of drawing a line between trade combinations and agreements which are reasonable and those which are unreasonable—those which are proper and virtually unavoidable in exercising the freedom of contract and transacting business affairs, and those, on the other hand, which are clearly contrary to public policy, because monopolistic in tendency or intent and hence detrimental to public welfare.

But out of this temporary confusion of counsels are emerging order and consistency. At no time has there been any lack of uniformity in the general attitude of the highest courts, state and national, in their interpretation of the principles of the common law, and their application to the never-ending controversy between at-

tempted monopoly on the one hand and open competition on the other. Always and everywhere the trend of decisions has been against monopoly in every guise, while latterly and until the very recent phenomenal development of the trust system there has been a steady relaxation of the legal prohibitions upon such forms of trade combination and association as seemed reasonable in carrying out the details of a competitive system. As elsewhere stated, in practically all of the states there now exists absolute freedom of association of individuals and combination of capital through the formation of corporations for all lawful purposes. Also, there has been no disposition on the part of lawmakers or courts to resist the natural tendency everywhere manifest toward large-scale production with greater capital, when free from monopolistic taint and held within the lines of effective competition. The law and the courts have treated with tolerance, if not with liberality, the tendency to combine for purposes of competition. But recently the legislatures and the courts have found themselves confronted with the necessity of resisting the movement toward combination to monopolize. The phenomenal and sudden development of the trust system has compelled this apparent change of attitude, which, however, is only apparent. The change is in the character of the problem to be treated. In this emergency it should not be cause for surprise, if, in some states, the legislative pendulum has temporarily swung to the extreme of resisting all combinations which result in restraint of competition, even when they are in fact reasonable and proper. The anti-trust laws of the several states, summarized herein, illustrate this passing tendency. In the opinion of some the license exercised by the organizers of trusts in virtually suppressing competition will compel, for a time, a restriction of the liberty of all in this matter of agreeing or combining even within the lines of open competition.

Herewith is published a clear statement of the scope and bearing of the federal anti-trust statute since its interpretation and application by the federal Supreme Court.

Inasmuch as the turning point in the remedial treatment of the trust is in connection with the question of freedom of contract as impliedly guaranteed by the federal constitution, a most thorough and competent discussion of this subject is presented in the following pages, as furnished by one of the ablest of American lawyers, under the title, "Extent and Limits of Legislative Control Over Freedom of Contract." While this discussion by Mr. Dye is from the standpoint of one who evidently considers the trust movement as a natural outgrowth of economic conditions, and while some of its conclusions will be sharply questioned, it is candid, clear and exhaustive.

In the article, "Remedies," under the sub-title, "Remedy by Trust Disintegration," will be found some views of an interesting nature concerning the disruption of the trusts through the steady pressure and the judicial application of the prohibitions of the common law, reinforced by state statutes, against all organizations embodying practical monopolies. Recent judicial decisions, notably that of the Glucose case, by the Supreme Court of Illinois, are attracting wide attention, and causing much debate as to what further may follow along the same general line. The recently recorded attitude of the federal Supreme Court adverse to all monopolistic tendencies and aggregations adds interest to the situation.

TRUSTS UNDER THE FEDERAL CONSTITUTION.

The Extent and Limits of Legislative Control Over the Freedom of Contract—The Case Stated—Power of Congress in the Premises—Power of State Legislatures—Sacredness of Private Property—Inalienable Right of Every Citizen to Do What He Will with His Own—One Corporation May Lawfully Purchase the Assets and Business of All Others—The Resulting Suppression of Competition No Bar to the Transaction—The Modern Monopoly-trust Legally Unassailable.

[By Mr. John T. Dye, of the Indianapolis Bar.]

[By far the ablest presentation that has yet been made of the propositions of constitutional law upon which the modern trust system claims to repose, and by which it claims to be protected against successful assault, has been furnished by Mr. John T. Dye, general counsel for the Cleveland, Cincinnati, Chicago & St. Louis Railway Company. It was embodied in an address delivered by him at the last annual meeting of the Indiana State Bar Association (August, 1899), and is given here by his special permission and without material abbreviation. The other view would be that so far as the courts outside of New Jersey have yet reached and passed upon the central question involved in the present trust movement (namely, the legal right of one corporation deliberately to obtain and then to operate a virtual monopoly of an entire industry within the United States by purchasing to that end all or nearly all of the previously independent plants and businesses constituting that industry), they have not sustained Mr. Dye's contention that such a course is validated and protected by the guaranty of freedom of contract impliedly embodied in the federal constitution. What the United States Supreme Court may decide remains to be seen, but opponents of the trust suggest that the outgiving of that tribunal in deciding the Traffic Association and Trans-Missouri cases indicates that systematic monopoly artificially achieved, as in our trust system, will need to find some other legal warrant than that which is furnished by freedom of contract.

After summarizing the remarkable industrial development in the United States, especially during the last two decades, and

stating that in the opinion of many "unrestrained competition in some industries has become so fierce and destructive as to be ruinous, and combination under such conditions is absolutely indispensable to the public welfare," Mr. Dye refers to the present phenomenal tendency toward industrial consolidation and then takes up the special theme of his address—"The extent and limits of legislative control over the freedom of contract;" in other words, the question of the power of Congress and the State Legislature over the modern Trust.—The Editor.]

When the people are disturbed by any change in economic and social conditions from which they apprehend real or imaginary evils, the first impulse is to repress the movement by legislation. But, as economic and social laws are sometimes stronger than legislative enactments, these attempts have not always been successful. Such legislation often produces results entirely different from those intended and sometimes accelerates the very movement it is designed to repress.

The Question Stated.—Whether this movement be for good or evil is an economic and social question, and not a legal one; and economic questions have a way of working out their own solution. It is clear, however, that there is no way to arrest this movement except by the legislative control of the freedom of contract in the use and disposition of property, in such manner as to prevent the employment of vast amounts of capital in one class of business under unity of control and management; and we are confronted with the legal question, How far is this possible under our system of government?

The legal question would be comparatively simple in a government where the sovereignty was vested in one body, or head, but it is more complicated under our system of government, where sovereignty rests in the people, and they have divided up and parceled out its exercise between the federal government and the forty-five states, and between the executive, legislative and judicial departments, and have incorporated in the organic law all the checks that could be devised upon the exercise of sovereign power, to protect and preserve the historic rights which the English race has acquired in its long contest for freedom. The great contribution of English speaking people to civilization has been in developing and establishing institutions which enlarge, protect and defend the area of individual freedom, the right to liberty, property and the pursuit

of happiness. And this has been accomplished by limiting the functions of the state, conferring the exercise of different portions of governmental authority upon separate agencies, and restraining the action of these agencies by the various checks and devices which have been discovered in the painful struggle of five centuries.

"It is the felicity of the American people," says Professor Hare, "that, while they are sovereign, they have given bonds not to exercise their power despotically, and cannot, even on the pretense of necessity, or of the greatest good of the greatest number, disregard the rights of individuals." Hare's American Constitutional Law, p. 1243.

The constitution confers on Congress exclusive power within a carefully defined sphere, in which the states have no jurisdiction.

As to powers not granted to the national government, each of the states is supreme in its own territory, but has no jurisdiction beyond its boundaries. No state can exercise any control outside of its own territory over the acts or contracts of individuals or corporations residents of other states. The citizens of each state are also citizens of the United States, and entitled to the privileges and immunities of citizens in the several states.

The exercise of governmental power is further divided between legislative, judicial and executive departments, and the action of each department is confined to its own sphere. Legislation can be exercised only within the sphere of "legislative power," and is also subject to the limitations contained in the constitution to protect the historic rights which are declared inalienable by the declaration of independence.

So that a legislative enactment to be law must be (1) within the sphere of "legislative power," (2) it must be within the jurisdiction of the legislative body enacting the statute, and (3) it must not violate the organic law ordained in the constitution.

I.

THE POWER OF CONGRESS OVER THE FREEDOM OF CONTRACT.

Congress has only such powers as are expressly granted to it by the constitution, and as are necessary and proper to carry out such express powers. Among these are the power to enact a bankruptcy law; the power to coin money and regulate the value thereof, and the power to regulate commerce among the states and with foreign nations.

Under the power to pass a bankruptcy law, and under the power to coin money and regulate the value thereof, Congress

may destroy the obligations of contracts. Where a contract has been made payable in dollars, Congress may change the value of the dollar and the contract will be payable in legal dollars at the time of its enforcement. Congress may also make paper money, issued by the government, legal tender. But where the contract is made payable in commodities, or in so many ounces of gold or silver, Congress cannot alter the contract by requiring it to be paid in a different commodity or a less amount of bullion than that stipulated.

It is not in the power of Congress to prevent parties from making contracts payable in bullion or commodities, nor in the power of the states. The states are forbidden by the constitution to impair the obligation of contracts, but no such restraint is imposed on the United States; its inability arises solely from want of power, and ceases to exist when a contract stands in the way or falls within the scope of any of the powers conferred expressly or impliedly by the constitution. Hare's American Constitutional Law, 1239, Trebilcock v. Wilson, 12 Wall. 687; Bronson v. Rhodes, 7 Wall. 229.

The Commerce Clause of the Constitution.—The power to regulate commerce with foreign nations, among the several states and with the Indian tribes, is committed by the constitution to Congress.

In this vast field its power is supreme and exclusive; it may make such regulations as its judgment dictates, subject only to the limitations imposed in the constitution. It can impose no tax or duty upon articles exported from any state. It can give no preference, by any regulation of commerce, to ports of one state over those of another. No person can be deprived of liberty or property without due process of law, nor shall private property be taken for public use without just compensation.

Over contracts coming within the sphere of foreign and interstate commerce, the states have no jurisdiction, except in the exercise of the taxing power, the police power and the power of eminent domain, all of which are subject to the limitations of the federal constitution.

Commerce Among the Several States.—While the confusion and friction wrought by conflicting legislation of jealous states was one of the strongest incentives to the formation of the Federal Union, it is worthy of note that until 1887 there was no general act to regulate interstate commerce. We had a whole century of splendid achievement, unparalleled in the history of the world. Our railroad system had been completed and operated by private enterprise, practically without restraint

or regulation by Congress, including the continental roads, to build which Congress largely contributed the money.

Sir Henry Maine, in his Essay on Popular Government, page 51, declares that "all this beneficent prosperity reposes on the sacredness of contract and the stability of private property; the first the implement, and the last the reward, of success in the universal competition."

And the act to regulate commerce, passed in 1887, in the language of Jackson, J., in I. C. C. v. B. & O. R. R. Co., 43 Fed., 37, which has been three times cited with approval by the Supreme Court, "leaves common carriers as they were at common law, free to make special contracts looking to the increase of their business, to classify their traffic, to adjust and apportion their rates so as to meet the necessities of commerce, and generally to manage their important interests upon the same principles which are regarded as sound and adopted in other trades and pursuits" * * * "subject to the two leading prohibitions that their charges shall not be unjust or unreasonable, and that they shall not unjustly discriminate so as to give undue preference or advantage, or subject to undue preference or disadvantage persons or traffic similarly circumstanced."

While Congress has power to fix rates or charges for interstate transportation, there was no attempt to do so in the act to regulate commerce, and if such regulation should be attempted in the future, the limitation of the fifth amendment would apply to the action of Congress the same rule which has been applied under the fourteenth amendment to the action of the states, and would prohibit the establishment of rates for the interstate transportation of persons or property that would not admit of the carrier earning such compensation as should, under all the circumstances, be just to it and to the public, without some proceeding by due process of law to determine as to the reasonableness of such rates. Smith v. Ames, 18 Sup. Ct. Reporter, 426.

Limits of Powers of Congress.—Congress has unquestioned power to prevent contracts, combinations or conspiracies to restrain trade that come within the sphere of its jurisdiction to regulate interstate or foreign commerce, but outside of this field it has no such power.

The rule upon this question is very clearly stated in re Greene, 52 Fed. Rep., 113 (1892), in a lucid opinion construing the anti-trust law of July 2, 1890.

"Congress may place restrictions and limitations upon the right of corporations created and organized under its authority to acquire,

use and dispose of property. It may also impose such restrictions and limitations upon the citizen in respect to the exercise of a public privilege or franchise conferred by the United States. But Congress certainly has not the power or authority under the commerce clause, or any other provision of the constitution, to limit and restrict the right of corporations created by the states, or the citizens of the state, in the acquisition, control and disposition of property. Neither can Congress regulate or prescribe the price or prices at which such property or the products thereof shall be sold by the owner or owners, whether corporations or individuals. It is equally clear that congress has no jurisdiction over, and can not make criminal the aims, purposes and intentions of persons in the acquisition and control of property, which the states of their residence or creation sanction and permit. It is not material that such property, or the products thereof, may become the subject of trade or commerce among the several states or with foreign nations. Commerce among the states within the exclusive regulating power of Congress 'consists of intercourse and traffic between their citizens, and includes the transportation of persons and property as well as the purchase, sale and exchange of commodities.' County of Mobile vs. Kimball, 102 U. S. 691-702; Gloucester Ferry Co. vs. Pennsylvania, 114 U. S. 203, 5 Sup. Ct. Rep. 826.

"In the application of this comprehensive definition, it is settled by the decisions of the Supreme Court that such commerce includes, not only the actual transportation of commodities and persons between the states, but also the instrumentalities and processes of such transportation. That it includes all the negotiations and contracts which have for their object, or involve as an element thereof, such transmission or passage from one state to another. That such commerce begins, and the regulating power of Congress attaches, when the commodity or thing traded in commences its transportation from the state of its production or situs to some other state or foreign country, and terminates when the transportation is completed, and the property has become a part of the general mass of the property in the state of its destination. When the commerce begins is determined not by the character of the commodity, nor by the intention of the owner to transfer it to another state for sale, nor by his preparation of it for transportation, but by its actual delivery to a common carrier for transportation, or the actual commencement of its transfer to another state. At that time the power and regulating authority of the states cease, and that of Congress attaches and continues, until it has reached another state, and become mingled with the general mass of property in the latter state.

"That neither the production nor manufacture of articles or commodities which constitute subjects of commerce, and which are intended for trade and traffic with citizens of other states, nor the preparation for their transportation from the state where produced or manufactured, prior to the commencement of the actual transfer, or transmission thereof to another state, constitutes that interstate commerce which comes within the regulating power of Congress; and, further, that after the termination of the transportation of commodities or articles of traffic from one state to another, and the mingling

or merging thereof in the general mass of property in the state of destination, the sale, distribution and consumption thereof in the latter state forms no part of interstate commerce. Pensacola Tel. Co. vs. Western Union Tel. Co., 96 U. S. 1; Brown vs. Huston, 114 U. S. 622, 5 Sup. Ct. Rep. 1091; Coe vs. Errol, 116 U. S. 517-520, 6 Sup. Ct. Rep. 475; Robbins vs. Taxing Dist., 120 U. S. 497, 7 Sup. Ct. Rep. 592; Kidd vs. Pearson, 128 U. S. 1, 9 Sup. Ct. Rep. 6. In the latter case the Supreme Court pointed out the distinction between commerce and the subjects thereof, and held that the manufacture of distilled spirits, even though they were intended for export to other states, was not commerce, falling within the regulating powers of Congress."

The Knight Case.—This same rule was followed in United States vs. E. C. Knight Co., 60 Fed. Rep. 934 [the Sugar Trust case] and the case was afterward affirmed by the supreme court of the United States in 156 U. S. 1. In this case the Supreme Court decided that the act to protect trade and commerce against unlawful restraint and monopolies, July 2, 1890 [federal anti-trust act], applied to monopolies in restraint of interstate and international trade or commerce, and not to monopolies in the manufacture even of a necessary of life; that the intent to export a manufactured article to foreign nations or to send it to another state did not determine the time when the article or product passed from the control of the state and belonged to commerce; and that, accordingly, the act did not apply to a company engaged in one state in the refining of sugar under the circumstances detailed in that case, because the refining of sugar under those circumstances bore no distinct relation to commerce between the states or with foreign nations. In an opinion in which eight members of the court concurred, the Supreme Court [Chief Justice Fuller] said:

"The argument is that the power to control the manufacture of refined sugar is a monopoly over a necessary of life, to the enjoyment of which by a large population of the United States interstate commerce is indispensable, and that, therefore, the general government in the exercise of the power to regulate commerce may repress such monopoly directly and set aside the instruments which have created it. But this argument cannot be confined to necessaries of life merely, and must include all articles of general consumption. Doubtless the power to control the manufacture of a given thing involves in a certain sense the control of its disposition, but this is a secondary and not a primary sense; and although the exercise of that power may result in bringing the operation of commerce into play, it does not control it, and affects it only incidentally and indirectly. Commerce succeeds to manufacture, and is not a part of it. The power to regulate commerce is the power to prescribe the rule by which commerce shall be governed, and is a power independent of the power to suppress monopoly. But it may operate

in repression of monopoly whenever that comes within the rules by which commerce is governed or whenever the transaction is itself a monopoly of commerce.

"It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however sometimes perplexing, should always be recognized and observed, for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the states as required by our dual form of government; and acknowledged evils, however, grave and urgent they may appear to be, had better be borne than the risk be run, in the effort to suppress them, of more serious consequences by resort to expedients of even doubtful constitutionality.

"It will be perceived how far reaching the proposition is that the power of dealing with a monopoly directly may be exercised by the general government whenever interstate or international commerce may be ultimately affected. The regulation of commerce applies to the subjects of commerce and not to matters of internal police. Contracts to buy, sell, or exchange goods to be transported among the several states, the transportation and its instrumentalities, and articles bought, sold, or exchanged for the purpose of such transit among the states, or put in the way of transit, may be regulated, but this is because they form part of interstate trade or commerce. The fact that an article is manufactured for export to another state does not of itself make it an article of interstate commerce, and the intent of the manufacturer does not determine the time when the article or product passes from the control of the state and belongs to commerce."

These propositions seem to be settled: 1. The power of Congress does not extend to preventing contracts and combinations in restraint of trade and monopolies outside of the sphere of commerce among the states and with foreign nations.

2. The business of manufacturing is not embraced in interstate commerce, and Congress has no power to control or restrain aggregations of capital in the business of manufacturing.

3. Congress has no power to restrain monopoly as such, unless it comes within the rules by which commerce is governed, or be itself a monopoly of commerce.

4. Congress cannot limit the rights of persons or corporations in the mere acquisition, control or disposition of property, or regulate the price at which such property should be sold, or make criminal acts of persons or corporations in the acquisition and control of property which the states of their residence or creation sanction or permit.

5. When commerce begins is determined not by the character of the commodity nor the intention of the owner to transfer it to another state for sale, nor by his preparation of it for transportation, but by its actual delivery to a common carrier for transportation or by the actual commencement of its transfer

to another state. At that time the power to regulate of the state ceases and that of Congress attaches and continues until it has reached another state and becomes mingled with the general mass of property in the latter state.

6. Contracts to buy and sell or exchange goods to be transported among the several states, the transportation and its instrumentalities, and articles bought, sold or exchanged in the business of such transit among the states and in the way of transfer, may be regulated, because they form a part of interstate trade or commerce.

7. The fact that an article is manufactured for export in another state does not of itself make it an article of interstate commerce. The intent of the manufacturer does not determine when the article or product passes from the control of the state and belongs to commerce.

8. The case of the Addystone Pipe Company decided that an agreement or combination between corporations engaged in private employment which is not "a contract to buy, sell or exchange goods to be transported among the several states," but which is intended to and necessarily does operate as a restraint upon competition in the sale of goods in one state to be delivered from another, is interstate commerce, or an obstruction to such commerce, subject to regulation by Congress.

If the Supreme Court affirms this decision, it does not clearly appear that it would have any effect upon (1) the aggregation of capital in one kind of business by persons or corporations engaged in private employments, nor (2) upon the restraint of competition necessarily resulting therefrom, where there was no agreement or combination. Congress cannot limit the amount of money invested in one kind of business. Persons or corporations would still have power to buy, sell and exchange goods to be transported among the several states. They could not be compelled to sell their products in any particular territory or to any particular person or at fixed prices.

Line Between State and Federal Power.—It is manifest that if the line between the power to regulate commerce, which belongs to Congress, and the police power, which belongs to the states, should be erased or made indefinite great confusion would result.

If under the power to regulate commerce—"to prescribe the rule by which commerce shall be governed"—Congress had exclusive jurisdiction to prescribe the rules by which all persons should be governed in making contracts which may affect commerce, the sphere of local self-government would be very much narrowed, and the power of the national government indefinitely extended.

It should be noted that in the Joint Traffic Association case, in the majority opinion it is said (Supreme Court Reporter, vol. 19, No. 3, page 35): "It is not only possible, but probable, that good sense and integrity of purpose would prevail among the managers [of railroads], and, while making no agreement and entering into no combination by which the whole railroad interest as herein represented should act as one combined and consolidated body, the managers of each road might yet make such reasonable charges for the business done by it as the facts might justify."

If the managers of railroads, engaged in interstate commerce, in a public employment, and subject to regulation by Congress, each acting for his own road and not in pursuance of any contract or combination, may make such reasonable charges for business done as the facts may justify, no reason is apparent why persons or corporations engaged in private employments, and not subject to regulation by Congress, might not accomplish the same purpose, without any combination or contract in restraint of trade.

It appears to be well settled that the power of Congress does not extend to preventing contracts or combinations in restraint of trade, or monopolies outside the sphere of commerce among the states and with foreign nations, although it may be difficult sometimes to draw the line between interstate commerce and the internal police power of the state.

Outside of the domain of interstate commerce and of the exercise of the power to coin money and regulate the value thereof, and of the power to pass a bankruptcy law, Congress has no power to control the making of contracts, nor to affect them, except in so far as they may be affected by the exercise of governmental powers, such as to declare war or make treaties, or lay taxes, or in the exercise of the power of eminent domain.

II.

THE POWER OF THE STATE TO LIMIT THE FREEDOM OF CONTRACT.

Outside of the domain committed by the constitution to the federal government, the sovereignty of the state is supreme, subject, of course, to the limitations imposed in the constitution of the United States.

But the legislature cannot exercise despotic, uncontrolled and arbitrary power. It can only exercise "legislative power."

Under our form of government the legislature is not su-

preme; it is only one of the organs of that absolute sovereignty which resides in the whole body of the people. Like other departments of the government, it can only exercise such powers as have been delegated to it, and when it steps beyond that boundary, its acts, like those of the most humble magistrate in the state who transcends his jurisdiction, are utterly void.

Eminent Authorities Quoted.—"Mr. Justice Story says (Wilkinson vs. Leland, 2 Peters 627): 'The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. At least no court of justice in this country would be warranted in assuming that the power to violate and disregard them—a power so repugnant to the common principles of justice and civil liberty—lurked under any general grant of legislative authority, or ought to be implied from any general expression of the will of the people. The people ought not to be presumed to part with rights so vital to their security and well being, without very strong and direct expressions of such an intention.' (See also 2 Kent Com., 13,340, and cases there cited.)

The security of life, liberty and property lies at the foundation of the social compact; and to say that this grant of legislative power includes the right to attack private property is equivalent to saying that the people have delegated to their servants the power of defeating one of the great ends for which the government was established." (Taylor vs. Porter, 4 Hill 141-143.)

No state shall deprive any person of life, liberty or property without due process of law, nor deny to any person equal protection of the laws.

It is a striking illustration of the manner in which the English-speaking people preserve the historic continuity of their development, that we find the language of the first great charter of English liberty, centuries afterward, incorporated in the fifth amendment of the constitution of the United States, limiting the power of the federal government, and three-quarters of a century later, in the fourteenth amendment, limiting the power of the states, and expanded and widened to embrace equal protection of the law to all persons.

The fact that no cause has arisen under the fifth amendment, limiting the action of the federal government, which required a construction or definition of the word "liberty," is a striking illustration of how lightly the federal government has borne upon the citizen. But the same language contained in the fourteenth amendment has been construed, and will doubtless be the subject of many future adjudications.

The word "liberty" embraces the right to pursue any livelihood or lawful avocation, and for that purpose to enter into all contracts which may be proper and necessary and essential to carrying them out to a successful conclusion, including the right of acquiring, holding and selling property, and the right to make all proper contracts in relation thereto. Allgeyer vs. State of Louisiana, 165 U. S. 580; L. C. P. Co., Book 41, p. 832; Butchers' Union, S. H. & L. S. L. Co. vs. Crescent City L. S. L. & S. H. Co., 111 U. S. 746-762 (28, 585-589); Powell vs. Pennsylvania, 127 U. S. 678-684 (32, 235-256.)

In the words of an eminent jurist, Mr. Phelps, "A just freedom of contract in lawful business is one of the most important rights reserved to the citizen under the general term of 'liberty,' for all human industry depends upon such freedom for its fair reward.

"The use of property is an essential part of it, and when abridged, the property itself is taken. Its use is abridged when the owner is precluded from any contract that is necessary or desirable in order to secure to him a just compensation for its employment. And when any class in the community is so precluded, it is, to that extent, 'deprived of the equal protection of the law.'"

The police power is subject to the limitations imposed by the constitution of the United States.

The state may unquestionably, in the exercise of its powers of sovereignty, regulate and control the acts and contracts of its citizens, but all legislative acts must be within the scope of "legislative power," and they must be subject to the paramount power of the constitution of the United States, and may not violate the rights secured by that instrument.

The question whether in any particular case legislation oversteps the limitations prescribed by the federal constitution must be decided by the judicial tribunal, and not by the legislature.

"The courts are not bound by mere form, nor are they to be misled by mere pretenses. They are at liberty, and indeed are under a solemn duty, to look at the substance of things whenever they enter upon the inquiry whether a legislature has transcended the limits of its authority. If, therefore, a statute purporting to have been enacted to protect the public health, the public morals or the public safety has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the constitution." Hugler vs. Kansas, 123 U. S. 661.

In the case of L. S. & M. S. Ry. Co. vs. Smith, 19 Sup. Ct.

Rep. No. 26, p. 567, it was said: "This (police) power must, however, be exercised in subordination to the provisions of the federal constitution. If, in the assumed exercise of its police power, the legislature of a state directly and plainly violates a provision of the constitution of the United States, such legislation would be void.

Where "the state legislature has the power of regulation over the corporations created by it, and in cases of railroad corporations, the same power of regulation and also full control over the subject of rates to be charged by them as carriers for the transportation of persons and property [within the boundaries of the particular state], assuming that the state is not controlled by contract between itself and the railroad company, the question is, how far does the authority of the legislature extend in a case where it has the power of regulation, and also the right to amend, alter, or repeal the charter of a company, together with a general power to legislate upon the subject of rates and charges of all carriers? It has no right, even under such circumstances, to take away or destroy the property, or annul the contracts of a railroad company with third persons.

"A railroad company, although a quasi-public corporation, and although it operates a public highway, has, nevertheless, rights which the legislature cannot take away, without a violation of the federal constitution. As stated in Smythe vs. Ames, 169 U. S. 466, 544, 18 Sup. Ct. 418, a corporation is a person within the protection of the fourteenth amendment. Although it is under governmental control, that control must be exercised with due regard to constitutional guarantees for the protection of its property."

As to Regulation of Rates in Public Employments.—The state can regulate and control corporations or individuals engaged in public employments, such as common carriers, grain elevators, etc., and can require that their services in such public employments shall be performed for reasonable compensation. Munn vs. People of Illinois, 4 Otto, 113.

But it cannot deprive such persons or corporations so engaged in public employments of such reasonable compensation as may be just to them and to the public, under all the circumstances, without due process of law. Smith vs. Ames, supra.

As to Private Employments.—The state has no power to compel any corporation or individual engaged in private employment to sell its property or services at a fixed price, nor can it prevent any purchaser from buying property or services at such price as may be agreed on.

As to Domestic Corporations.—The state has power to limit and regulate the scope and operation of all corporations which it may create, and impose upon them such conditions as are wise and just.

But the state cannot impair the obligation of contracts, and a charter granted to a corporation is a contract [between the chartering state and the chartered corporation] and cannot be revoked unless the power of revocation is reserved in the grant.

Neither can it prevent the aggregation of capital by an existing domestic corporation acting within the scope and within the limits of its corporate authority, where the power of revocation of its charter was not reserved in the grant.

As to Foreign Corporations.—The state can prevent corporations formed in other states [or countries] from coming into or carrying on business within its jurisdiction, or it may let them come into its jurisdiction under such conditions, as to the legislature may seem wise and just.

As to what constitutes coming into and carrying on business within a state, by a foreign corporation, there is sharp controversy.

It is perfectly clear, however, that selling property by such foreign corporation in another state, to a citizen of this state, is not coming into or doing business within this state. A citizen of Indiana may buy agricultural implements of a foreign corporation in Illinois or sugar or oil of a foreign corporation in New York, and the corporation selling to such citizen in its own state cannot be held to be doing business in the state of Indiana.

As to Trusts, Combinations and Conspiracies in Restraint of Trade or Competition.—The state has unquestioned power, within its boundaries, to make void all contracts, combinations or conspiracies in restraint of trade or commerce, and to impose penalties upon parties making such contracts and entering into such combinations.

But where there is no combination, conspiracy or agreement to restrain trade or commerce, it cannot deprive any person of his liberty or property by restraining him from pursuing a lawful avocation, or from making such contracts in the acquisition, use, and disposition of his property as may be necessary to successfully carry on any such pursuit.

The mere fact that large aggregations of capital in one kind of business inevitably tend to prevent competition does not authorize the state to prevent them, where there is no contract or combination to restrain trade. It cannot limit the amount of capital that persons engaged in private employments shall

employ in their business, nor the amount of products they shall buy or sell, nor prescribe what prices they shall pay or receive, nor the persons to whom they shall sell. It cannot prevent them from buying from foreign corporations in other states, nor can it in any way control or regulate the business of such corporations in other states.

Nor, as we have stated, can it prevent or control the action of domestic corporations acting within the scope and limits of their corporate authority in extending their business, and increasing their capital, unless by revoking their charters, and this cannot be done where such power of revocation is not reserved in the grant. Nor can it prevent the purchaser of property in another state from a corporation organized under the laws of another state from importing such property into the state of his residence, nor from selling such property to other citizens of the state of his residence, except such as may be harmful or dangerous, and the sale of which may therefore be restrained under the police power. And the exercise of such restraint under the police power upon the sale of products endangering the safety of the public must be by a general law which deprives no person or corporation of the equal protection of the laws.

Various Forms of Trusts and Combinations.—Mr. Thompson, in his Commentaries on the Law of Corporations (Section 6400), divides the various schemes under which these combinations have been made into five classes, and says that "they are all illegal except the last two." (Sec. 6401.)

"1. In so far as they consist of conspiracies to engross the necessaries of life, they are illegal and criminal, under the principles of the common law.

"2. They are illegal as contracts in general restraint of trade.

"3. They are unlawful in the sense of being ultra vires, that is to say, in the sense of being beyond the powers of each and every corporation entering into them.

"In the case of corporations formed to render service to the public distributively, such as railroad companies, gas light companies, etc., they are unlawful, in so far as they involve attempts on the part of the corporations entering into them to abnegate their public duties and devolve them upon other persons or corporations."

The fourth and fifth classes, which are, by inference, admitted to be lawful, are as follows:

A fourth is an agreement under which the competing corporations, without entering into an arrangement in the nature of a partnership, or establishing a central board of control, agree

among themselves that each is to take a certain course of action, the result of which will be to diminish or prevent competition among them, and to maintain certain prices for the commodity which they manufacture and sell.

The Modern "Trust."—"5. A fifth is a voluntary dissolution of all the competing corporations, and the formation of a single corporation under the statutes of some state whose laws are sufficiently liberal to enable it to be done—the new corporation becoming the purchaser of all the properties of the antecedent corporations, and the shareholders of such corporations receiving shares in the new corporation upon a basis agreed upon in the scheme of re-incorporation."

No reason has ever been suggested why corporations engaged in the same kind of business, without entering into a contract, or conspiracy or combination to restrain trade, may not each for itself take a certain course of action, the result of which would be to diminish or prevent competition or tend to maintain reasonable prices for the services they render or for the commodities which they manufacture and sell.

Indeed, this method is suggested in the case of railroad companies, in the language heretofore quoted from the opinion of the Supreme Court in the Joint Traffic Association case, and such course is characterized, in the opinion of the court, as that of good sense and integrity of purpose.

In the case of Post vs. Southern Railway et al., decided by the Supreme Court of Tennessee at its April term, it was held that this method was not obnoxious to the state and federal statutes against trusts and combinations.

It is also difficult to see how a single corporation, formed under the statute of some state, whose laws allow one corporation to become the purchaser of the property or stock of other corporations, may not indefinitely extend its control over a certain kind of industry. This fifth method, which is now being usually adopted, it would seem, cannot be defeated, so long as there is a state in the Union whose laws, like those of New Jersey or Delaware, authorize the formation of such corporations with power to become the purchasers of the property of antecedent corporations.

In Conclusion.—The state must preserve peace and enforce order to protect the liberty of all, and to that end, and to provide for the general welfare, it may regulate the acts and contracts of all persons in its dominion, including combinations of capital and of labor within the limitations imposed by the organic law, but no regulations can be made which will destroy or impair the historic rights of liberty and property, upon which our present social order is based.

Our modern industrial system is so vast, so complicated, so sensitive, and it affects so deeply the interests of every part of the commonwealth in ways that it is impossble to foresee or predict, that no man or body of men is wise enough to comprehend it in all its bearings and dictate the course of its future development.

There is no justification of democracy, except the firm faith that the full play of social and economic laws, under such regulation as secures liberty to all, works for the welfare and advancement of the race.

THE COMMON LAW.

ITS ORIGIN AND NATURE.

The Constitution of the United States assumes the existence of thirteen distinct state governments, over whose people its authority was to be extended if ratified by conventions chosen for the purpose. Each of these states was then exercising the powers of government under some form of written constitution, and that instrument would remain unaffected by the adoption of the national Constitution, except in those particulars in which the two would come in conflict; and as to those the latter would modify and control the former. But besides this fundamental law, every state has also a body of laws, prescribing the rights, duties and obligations of persons within its jurisdiction, and establishing those minute rules for the various relations of life which cannot be properly incorporated in a constitution, but must be left to the regulation of the ordinary law-making power.

By far the larger and more valuable portion of that body of laws consisted of the common law of England, which had been transplanted in the American wilderness, and which the colonists, now become an independent nation, had found a shelter of protection during all the long contest with the mother country, brought at last to so fortunate a conclusion.

The common law of England consisted of those maxims of freedom, order, enterprise, and thrift which had prevailed in the conduct of public affairs, the management of private business, the regulation of the domestic institutions, and the acquisition, control, and transfer of property from time immemorial. It was the outgrowth of the habits of thought and action of the people, and was modified gradually and insensibly from time to time as those habits became modified, and as civilization advanced, and new inventions introduced new wants and conveniences, and new modes of business. Springing from the very nature of the people themselves, and developed in their own experience, it was obviously the body of laws best adapted to their needs, and as they took with them their nature, so also they would take with

them these laws whenever they should transfer their domicile from one country to another.

For several hundred years, however, changes had from time to time been made in the common law by means of statutes. Originally the purpose of general statutes was mainly to declare and reaffirm such common law principles as, by reason of usurpations and abuses, had come to be of doubtful force, and which, therefore, needed to be authoritatively announced, that king and subject alike might understand and observe them.

From the first the colonists in America claimed the benefit and protection of the common law. In some particulars, however, the common law as then existing in England was not suited to their condition and circumstances in the new country, and those particulars they omitted as it was put in practice by them. They also claimed the benefit of such statutes as from time to time had been enacted in modification of this body of rules.

The evidence of the common law consisted in part of the declaratory statutes we have mentioned, in part of the commentaries of such men learned in the law as had been accepted as authority, but mainly in the decisions of the courts applying the law to actual controversies.

The colonists also had legislatures of their own, by which laws had been passed which were in force at the time of the separation, and which remained unaffected thereby. When, therefore, they emerged from the colonial condition into that of independence, the laws which governed them consisted, first, of the common law of England, so far as they had tacitly adopted it as suited to their conditions; second, of the statutes of England, or of Great Britain, amendatory of the common law, which they had in like manner adopted; and, third, of the colonial statutes. The first and second constituted the American common law, and by this in great part are rights adjudged and wrongs redressed in the American States to this day.—From Cooley's Constitutional Limitations, p. 32 and following.

THE MOGUL STEAMSHIP CASE.

This celebrated case is sometimes cited as permanently fixing the attitude of English law as favorable to the utmost freedom of combination among competitors, even to the point of practically suppressing competition. Briefly, the facts were that several independent steamship lines doing business between English and Asiatic ports combined and offered to all shippers a rebate of five per cent. below the transportation rates named by any and all outside or competing lines. The intent and effect was virtually to suppress competition and

monopolize the business in the hands of the combination. A suit was brought and carried to the highest British court to disrupt the combination as involving a contract in undue restraint of trade (Mogul Steamship Company vs. McGregor). The decision was in favor of the combination. It is contended by some trust advocates in this country that American law should be made to conform to the English, as interpreted and applied in the Mogul Steamship case. Thus far no such tendency has appeared in the United States. In the Harvard Law Review Mr. S. C. T. Dodd, solicitor of the Standard Oil Trust, makes the following reference to and quotations from the language of the English court in the case cited:

"If some of the modern opinions of judges in trust cases are to be followed, we are relegated at once, by the statutes referred to, to the dark ages when business was necessarily carried on in defiance of law. For instance, in the Sugar Trust case in the General Term (6 R. & C. L. J. 142), the court, by Judge Daniels, reasserted the old doctrines of the common law to their fullest extent. The combination was held to be illegal for the reason, among others, that 'it was intended to bring about and secure ulterior advantages in the way of advanced profits to the associates.' Its affairs 'were to be so managed and carried on as to promote the profit and gain of the associates' and 'it is no more than just to infer that the control is to be used to avoid competition and enhance prices and in that manner, as it is the ordinary expedient to that end, promote the interest and profit of the associates.' This is a repetition of the mistake of centuries ago, that business men may not adopt methods which promote their interests and profit, because their desire for profit may cause them to use those methods improperly, and because their advantage may tend to the disadvantage of others. There are four centuries of experience and wisdom between that idea and the language of the judges in Mogul Steamship Company vs. McGregor, to-wit: That 'the instinct of self-advancement and self-protection is the very incentive to trade;' that 'to say that a man is to trade fairly, but that he is to stop short at any act which is calculated to harm other tradesmen, would be a strange and impossible counsel of perfection;' that 'it is perfectly legitimate to combine capital for all the mere purposes of trade for which capital may, apart from combination, be legitimately used in trade;' that 'to limit combination of capital when used for purposes of competition, would be only another method of attempt-

ing to set boundaries to the tides;' that 'the object of acquisition of gain is lawful and commendable,' and that as 'competition exists when two or more persons seek to possess or to enjoy the same thing it follows that the success of one must be the failure of another.' "

MR. BEACH AS TO THE FUTURE.

A leading law writer, Mr. Chas. Fisk Beach, Sr., in his work, "A Treatise on Monopolies and Industrial Trusts as Administered in England and the United States of America," 1898, says:

"From the foregoing it is apparent that the 'trust,' as a conspiracy or combination for the purpose of creating a monopoly in restraint of trade, for the suppression of competition, for the limitation of production, or for the increase, or for the maintaining of prices, or of wages, is in contravention of public policy and illegal. Though the courts of this country are not in full accord with those of England, and though the decisions of the state courts are in a degree divergent, yet on the whole there is a good degree of unanimity in holding that the 'trust' is an unlawful organization, and as such void. Moreover, the decisions of the courts have been followed by vigorous and positive statutory enactments. Notwithstanding these facts, however, the 'trust' continues to live and prosper. Hitherto it has proved to be stronger than the legislature and the courts. By means of one device or another it has managed to elude the penalties of the law. It has been able to escape the forfeiture of its corporate privileges and the confiscation of its estates. This is due, however, not more to the great strength of these organizations than to the indifference and inertia of the public. When the people of this country are aroused they are stronger than any individual; stronger than any and all business combinations. This is not a prophecy in regard to the future of 'trusts,' or a discussion of their merits. This work has to do with the law to which these organizations are subject. It will appear in the progress of the discussion that the law is adequate to the control of the 'trust,' as well as of the individual, and that the remedy for any and all existing evils of this nature, at least, in most of the states, is in an unbiased and faithful administration of the law."

VIEWS OF THREE PRESIDENTS.

President Cleveland: Trusts Represent the "Communism of Pelf"—President Harrison: They are "Dangerous Conspiracies Against the Public Good and Should Be Made the Subject of Prohibitory and Even Penal Legislation"—President McKinley: They are "Obnoxious to the Common Law and the Public Welfare."

In his message, delivered to Congress December 5, 1899, President McKinley devoted considerable space to the Trust question. By quotations from messages of his two immediate predecessors in office he showed a striking concurrence of presidential opinion in opposition to the trust system. He said:

Combinations of capital organized into trusts to control the conditions of trade among our citizens, to stifle competition, limit production and determine the prices of products used and consumed by the people, are justly provoking public discussion, and should early claim the attention of the Congress.

The Industrial Commission, created by the act of the Congress of June 18, 1898, has been engaged in extended hearings upon the disputed questions involved in the subject of combinations in restraint of trade and competition. They have not yet completed their investigation of this subject, and the conclusions and recommendations at which they may arrive are undetermined.

The subject is one giving rise to many divergent views as to the nature and variety or cause and extent of the injuries to the public which may result from large combinations concentrating more or less numerous enterprises and establishments, which previously to the formation of the combination were carried on separately.

It is universally conceded that combinations which engross or control the market of any particular kind of merchandise or commodity necessary to the general community, by suppressing natural and ordinary competition, whereby prices are unduly enhanced to the general consumer, are obnoxious not only to the common law, but also to the public welfare. There must be a remedy for the evils involved in such organizations. If the present law can be extended more certainly to control or check these monopolies or trusts, it should be done without delay. Whatever power the Congress possesses over this most important subject should be promptly ascertained and asserted.

PRESIDENT HARRISON.

President Harrison in his annual message of December 3, 1889, says: "Earnest attention should be given by Congress to a consideration of the question how far the restraint of those combinations of capital commonly called 'trusts' is matter of federal jurisdiction. When organized, as they often are, to crush out all healthy competi-

tion and to monopolize the production or sale of an article of commerce and general necessity they are dangerous conspiracies against the public good, and should be made the subject of prohibitory and even penal legislation."

An act to protect trade and commerce against unlawful restraints and monopolies was passed by Congress July 2, 1890. The provisions of this statute are comprehensive and stringent. It declares every contract or combination, in the form of a trust or otherwise, or conspiracy in restraint of trade or commerce among the several states or with foreign nations, to be unlawful. It denominates as a criminal every person who makes any such contract or engages in any such combination or conspiracy, and provides a punishment by fine or imprisonment. It invests the several circuit courts of the United States with jurisdiction to prevent and restrain violations of the act, and makes it the duty of the several United States district attorneys, under the direction of the attorney-general, to institute proceedings in equity to prevent and restrain such violations. It further confers upon any person who shall be injured in his business or property by any other person or corporation, by reason of anything forbidden or declared to be unlawful by the act, the power to sue therefor in any Circuit Court of the United States without respect to the amount in controversy, and to recover threefold the damages by him sustained and the costs of the suit, including reasonable attorney fees. It will be perceived that the act is aimed at every kind of combination in the nature of a trust or monopoly in restraint of interstate or international commerce.

The prosecution by the United States of offenses under the act of 1890 has been frequently resorted to in the Federal Courts, and notable efforts in restraint of interstate commerce, such as the Trans-Missouri Freight Association and the Joint Traffic Association, have been successfully opposed and suppressed.

PRESIDENT CLEVELAND.

President Cleveland in his annual message of December 7, 1896—more than six years subsequent to the enactment of this law—after stating the evils of these trust combinations, says:

"Though Congress has attempted to deal with this matter by legislation, the laws passed for that purpose thus far have proved ineffective, not because of any lack of disposition or attempt to enforce them, but simply because the laws themselves as interpreted by the courts do not reach the difficulty. If the insufficiencies of existing laws can be remedied by further legislation it should be done. The fact must be recognized, however, that all federal legislation on this subject may fall short of its purpose because of inherent obstacles and also because of the complex character of our governmental system, which, while making the federal authority supreme within its sphere, has carefully limited that sphere by metes and bounds which cannot be transgressed. The decision of our highest court on this precise question renders it quite doubtful whether the evils of trusts and monopolies can be adequately treated through federal action, unless they seek directly and purposely to include in

their objects transportation or intercourse between states or between the United States and foreign countries.

"It does not follow, however, that this is the limit of the remedy that may be applied. Even though it may be found that federal authority is not broad enough to fully reach the case, there can be no doubt of the power of the several states to act effectively in the premises, and there should be no reason to doubt their willingness to judiciously exercise such power."

FAILURE OF STATE LEGISLATION.

The state legislation to which President Cleveland looked for relief from the evils of trusts has failed to accomplish fully that object. This is probably due to a great extent to the fact that different states take different views as to the proper way to discriminate between evil and injurious combinations and those associations which are beneficial and necessary to the business prosperity of the country. The great diversity of treatment in different states arising from this cause and the intimate relations of all parts of the country to each other without regarding state lines in the conduct of business have made the enforcement of state laws difficult.

It is apparent that uniformity of legislation upon this subject in the several states is much to be desired. It is to be hoped that such uniformity founded in a wise and just discrimination between what is injurious and what is useful and necessary in business operations may be obtained and that means may be found for the Congress within the limitations of its constitutional power so to supplement an effective code of state legislation as to make a complete system of laws throughout the United States adequate to compel a general observance of the salutary rules to which I have referred.

The whole question is so important and far-reaching that I am sure no part of it will be lightly considered, but every phase of it will have the studied deliberation of the Congress, resulting in wise and judicious action.

EFFECT IN WALL STREET.

The Chicago Tribune of December 7 contained the following special dispatch from E. W. Harden, its New York correspondent:

New York, December 6.—(Special.)—Industrial stocks were subjected to continuous hammering in to-day's stock market. In nearly all of the so-called industrial securities there were notable declines, this notwithstanding railroad stocks held up well. In the street there continues to be a good deal of speculation as to the probable course of Congress in the matter of trusts, and the timid have begun to run to cover on the belief that stringent legislation will be passed directed against all combinations.

Banks and trust companies are showing less disposition to accept industrial securities as collateral for loans. Lenders of money have not been favorably disposed toward industrial stocks for some time, and of late there has been less of a disposition on their part to put

out money on trust stocks. This has had much to do with the recent unsettled condition of the stock market as it relates to industrials. There has been a sort of unwritten rule with New York banks and trust companies to lend money only on mixed collateral, in which industrial securities shall not form more than 25 per cent. in value of the whole amount deposited. As the ordinary bank will not loan more than 80 per cent. of the face value of collateral deposited it is apparent that traders are discouraged from the handling of these stocks on margin.

The President's message, in which he speaks of the necessity for appropriate legislation, was the main cause for to-day's weakness. Those whose interests lie in the direction of higher prices for these stocks contend the President's message should not be looked upon as a factor in the situation for the reason that he discriminates in his recommendation between the combination formed for the purpose of controlling prices and preventing competition and the combinations formed on legitimate lines. All of the Trust officials say their companies belong in the latter list.

Capt. Judson N. Cross, a leading member of the Minneapolis bar, writes:

My ideas concerning the latest modern trust movement are as yet unsettled, crossing and recrossing the line between pro and con every time I give the subject a review mentally. Of one proposition, however, I am certain, and that is that in trade, commerce and manufacturing, competition is eternal and will not down. As the force of this law has passed from individuals to the corporation, so it will inevitably be inherited by the trust from the corporation. One trust will soon be found competing with another. Paraphrasing a certain well-known distich:

> E'en Trusts have other Trusts to bite 'em,
> And so on through, ad infinitum

Like individuals, trusts will overreach the line of business safety, will try to cover too much ground and fall, many of them of their own weight. Not all kinds of business have the physical and commercial continuity that characterizes the railroad, for example, and therefore cannot serve the public interests by consolidations as railroads do.

CHAPTER IX.

TRUST MISCELLANY.

The Trust in Politics—The Tariff and Trusts—The Department Store—Trusts and Organized Labor—The Flour-Milling Industry—A Voice From New England—The St. Louis Anti-Trust Conference of Governors—Views of Governors Sayers and Roosevelt—The Populist Position—Bank Sentiment—Chapter of Possible History (A. D. 1925).

THE TRUST IN POLITICS.

Up to the close of the year 1899 the trust question has not become in any proper sense an issue between political parties, although it is very much in politics. The sentiment of the people in regard to the trust movement is not perceptibly influenced by party lines. That sentiment, particularly outside of the great cities, but not even excepting them, is so nearly unanimous in opposition to what the people understand to be the aims and results of the trust system that no political party could stand for a moment against it, and no party shows a disposition to hazard the attempt. The problem is so new, at least in magnitude, that there has not been time or occasion for national party conventions to give much attention to it, but with few exceptions state conventions of all parties in all sections of the Union held since 1897, when the real trust deluge began, have spoken with one voice against the trusts or against their attendant evils. There has naturally been a wide variety in the form and intensity of these platform utterances, but no diversity in their general direction. It was to be expected that the party out of power would endeavor to fix some degree of responsibility for the unpopular trust movement on the party in power, and this attempt has been made. It has usually taken the form of charging that the Republican protective tariff favors and invites the formation of monopoly-trusts by preventing or hampering foreign

competition. This is either not admitted by Republicans or an answer is given like that of Senator Foraker of Ohio, to the effect that even if the charge were well-grounded it would still be better to have some trusts among us with the universal prosperity which a protective tariff brings, than to destroy that prosperity and bring back the former universal hard times by adopting low tariff legislation in order to demolish the trusts. This latter policy is likened by Republicans to the farmer's expedient of burning the barn and contents in order to get rid of the rats; and it is added that, as there are other methods for disposing of rats, besides burning valuable barns, so there are other methods of abolishing or rendering harmless the undesirable trusts besides bringing in free trade and thus pulling down the fabric of public prosperity. So far as any party issue can grow up out of the trust movement it is likely to be this subordinate or collateral one of the tariff.

As to the political standing of the men who have been most conspicuous in forwarding the trust movement, there is little chance for gaining partisan advantage. The late ex-Governor Roswell P. Flower of New York was, until his sudden death in 1899, the undoubted and acknowledged leader in the business of promoting, financing and defending great industrial trusts, but his prominence as a national Democratic leader has not led anyone to suggest a Democratic alliance with the trust interests in Wall Street. While no equally prominent Republican politician has been publicly indentified with the industry of consolidating industries, that party, like the Democratic, is adequately represented among trust organizers and managers.

As to responsibility or credit for the anti-trust legislation which has been so plentifully enacted in state and nation no party capital whatever can be made on either side. The interstate commerce act and the Federal anti-trust statute were passed by Republican Congresses, the former having been introduced and championed by Republican Senator Cullom, and the latter by Republican Senator Sherman, while each measure received the pretty unanimous vote of Democrats and Republicans alike. The editor has ascertained through correspondence with the proper authorities in each case that the twenty-nine anti-trust laws now on the statute books of as many different states were enacted without any party division and usually with the solid support of both political parties. In Democratic states the Democratic party has naturally been responsible for these measures, in Republican states the Republican, and as will be seen by

the list of these laws published herein they are quite equally divided among Democratic and Republican states. Maine, the rock-ribbed Republican state, led off in point of date in 1889, while Texas, the rather robust Democratic state, has eclipsed all her sister commonwealths in the fullness and severity of her prohibitory and repressive laws.

It has been recommended with earnestness, and from sources both intelligent and influential, to the Republican leaders in Congress, that as representatives of the party just now having both opportunity and responsibility, they bring forward immediately a resolution proposing an amendment to the Federal constitution. It is suggested that such proposed amendment should confer upon Congress broader powers than it now possesses to deal through legislation with the various aspects of the trust question, but particularly to suppress monopolistic combinations or aggregations attempting to carry on business in more than one state. Reference is made, first, to the present very narrow limits of congressional power under the commerce clause of the Constitution, as applied by the United States Supreme Court in the cases arising under the Federal anti-trust statute; second, to the apparent inability of each state acting singly to accomplish desired results; and, third, to the assured impossibility of securing harmonious action by all the states. It is then urged, on lower grounds, that even if such an amending resolution should fail to receive the support of the necessary two-thirds of each house, owing possibly to Democratic reluctance to enlarge the powers of the Federal government, yet the formulation and proposal of such a measure in good faith by the Republican party would free it from possible censure, and fix responsibility for defeat elsewhere. One adviser of the Republican party has put it thus tersely: "The responsible political party which does not move in this matter promptly, sincerely and vigorously, is lost."

Mr. Bryan, answering the question whether a declaration against trusts by both political parties in their platforms for 1900 would put an end to the discussion, said: "Not at all, because the Republican Party has made a record that might cast suspicion on its good intentions, even though it were to declare against trusts. Why give that party four years more to do something promised when the present administration has done nothing?"

In the platform for 1892, on which Mr. Cleveland and a Democratic Congress were elected was this anti-trust plank:

"We recognize in the trusts and combinations which are designed to enable capital to secure more than its just share of the joint product of capital and labor a natural consequence of the prohibitive taxes which prevent the free competition which is the life of honest trade,

but we believe their worst evils can be abated by law, and we demand the rigid enforcement of the laws made to prevent and control them, together with such further legislation in restraint of their abuses as experience may show to be necessary."

Mr. Bryan, who was a member of the Ways and Means Committee of that Congress, has been reminded of this and of the fact that his own party, when thus in supreme power, did nothing to obstruct or punish the trust, and hence that there is no ground for Democratic criticism of Republican inaction along the same line. It is retorted that at the time when the Democrats were thus temporarily in control, there had not been sufficient experience with then existing anti-trust laws to warrant further and immediate repressive legislation; that the Democratic president proved to be not in sympathy with the anti-trust attitude of his party and platform; hence, nothing could reasonably have been expected from him or from his attorney-general; and that the Democrats now propose to atone for the former mistake by electing a president who will be a genuine and aggressive exponent of his party's anti-monopoly sentiment. Meanwhile President McKinley's message of December, 1899, is stalwartly anti-trust. As to his attorney-general—?

The present ambiguous or waiting attitude of the labor leaders toward the trust question is somewhat embarrassing to the managers of both political parties. The rank and file of workmen apparently share fully the general feeling of opposition to trusts, but the labor union officials are acting the part of opportunists, and carefully avoiding any definite commitment. This attitude characterized their utterances at the Chicago Trust Conference, nearly to the extent of robbing them of all significance. More recently President Samuel Gompers, of the American Federation of Labor, has published in the national organ of that order an adroit article which is published herein, and which sufficiently illustrates what is here said. It indicates that the leaders of organized labor are prepared to make terms with the trusts, and at least refrain from joining any anti-trust crusade, political or otherwise. Whether the masses of wage earners are to be won over to this diplomatic policy remains to be seen. If so, the fact is likely to temper, to some extent, the anti-trust utterances of all political parties.

THE TARIFF AND THE TRUST.

There has been no really intelligent and helpful discussion of the relation of the tariff to the various trusts. Free traders have made sweeping charges to the effect that the present

tariff is the cause and bulwark of nearly all monopolistic trusts, but Protectionists, on the other hand, have pointed to the fact that the greatest of all the trusts, the Standard Oil, produces a commodity which is on the free list. President Havemeyer of the Sugar Trust asserts that "the tariff is the mother of all trusts," but Mr. Havemeyer, himself, represents a tariff-protected trust, which demands still more protection, and he is scarcely an authority on political economy.

Undoubtedly there is an excellent opportunity for the Democratic party to make a fresh onslaught on the protection policy by identifying it with the present trust movement, and with much of plausibility, if not of reason. It will be surprising if this attempt is not made. The situation is probably about this: A considerable number of the newer trusts are either rendered possible or are greatly aided by the existing tariff, and all trusts which have monopolized protected industries reckon upon the tariff as enabling them to hold prices at a higher level than they could under revenue duties. Plainly the Tin Plate Trust could not exist for a day without a high duty on the commodity it produces. When President Reed of the American Tin Plate Company recently testified before the Industrial Commission, he was asked whether that industry could have been consolidated into a trust, but for the tariff. He replied: "There would have been nothing to consolidate." This is doubtless true, but it is not clear that with the industry established as it now is a much lower duty will not serve all legitimate purposes. The National Salt Company is another trust which depends absolutely on the tariff for existence, but it is also true that the American Salt Industry, except in the west, no matter how owned, would go to the wall but for a duty on foreign salt. When salt is on the free list English salt is brought to our seaboard cities in ballast (freight free) while it costs $2 per ton to transport salt to our seaboard from the nearest producing points in New York state. In regard to the general list of protected industries which have been absorbed by trusts, many insist that the tariff should be promptly lowered all along the line to a point which, while producing sufficient revenue, will prevent these protected trusts from earning

dividends on the immense volume of water included in their capitalization. Over against this contention, the friends of protection point to the present times of abounding prosperity as resulting from the protective system embodied in the Dingley tariff and protest against a return to a low tariff with commercial depression simply to hurt the trusts.

This, of course, is obvious: If a trust has a virtual monopoly of an industry for the United States, a chief restraint upon it is the possibility of competition from foreign countries. Now if a tariff wall tends to shut out all foreign competitors, the higher that wall is the more completely is foreign competition excluded and the more completely are American consumers placed and held at the mercy of the protected American trust.

THE DEPARTMENT STORE.

Objections to it Stated—Criticisms Answered—No Resemblance to the Trust—Succeeds Because it Serves the Public—It is Opposed to Monopoly—Views of Hon. John Wanamaker.

Those who regard the department store as an unwholesome and injurious feature of recent trade conditions hold that it closely resembles the industrial trust in its effects if not in its methods; that it seeks and tends to monopolize retail merchandising, or at least to concentrate it in the hands of a very few, when it is better for the public welfare, viewed largely and in the long run, that traffic of this nature should be divided among many independent dealers; that it drives out of business thousands of middle-class merchants and shopkeepers, together with their employes, and renders but a fractional and inadequate return for this injury to society and to individuals by furnishing employment on salaries or wages to a part of those former proprietors whom it has displaced; that it thus tends to lower the level of our citizenship by eliminating or greatly diminishing the number of independent employing tradesmen and dividing the mercantile element of each large city into two classes, consisting on the one hand of half a dozen multimillionaire owners of vast department stores, who have no need for their additional millions and continue in business chiefly for the

excitement of further accumulation, and on the other hand several thousand employed persons of both sexes, parts of a great machine, with identity largely lost and dependent for continued livelihood upon the continued favor of intermediate bosses, whose caprice, prejudice or nepotism may at any time find a cause for compassing the removal of competent and faithful subordinates.

The other side is this: Whatever may be the merits or demerits of the department store, and whatever society may finally conclude to do with it, it broadly differs from the trust in this—that it does not attempt to obtain a monopoly of trade by the artificial device of purchasing and absorbing all competing stores; if it draws custom from neighboring merchants it does so by being able, through its larger facilities, to furnish habitually a greater service for the money paid, some legitimate advantage in price, variety, quality or convenience, or in all of these; it enables its patrons to purchase under one roof practically all needed commodities from needles and coffee to carpets and pianos; it saves time and avoids wear and tear by permitting of "one payment, one delivery and one ringing of the door bell" as the result of a day's shopping; it has thus far shown no tendency to form combinations with other department stores to shut out competition, maintain prices or limit supply; it cannot and does not prevent competing department stores from starting and continuing in the same field, as witness the successful and unopposed invasion of New York City, first by Siegel, Cooper & Co., and then by Wanamaker, to compete with Macey and others long established there; it cannot and does not escape the keenest actual competition from other equally strong concerns; it is not kept on its good behavior by "potential competition," but by perpetual and sleepless rivalry at its elbow. A recent canvass of St. Louis is said to have developed the fact that there are in that city as many small retail stores, each supporting from one to three independent proprietors, as there were before the development of the modern department store. In any large city, convenience of distance must always maintain a great many thrifty stores and shops not conducted on the department or conglomerate plan.

In Illinois and Missouri, and possibly one or two other states, legislation has been recently enacted for levying a special license tax on department stores, the object being not revenue, but the discouragement of the tendency toward this form of merchandising, and the aiding of ordinary merchants and dealers to compete with the mercantile giants. Cases to test the constitutionality of some of

these acts are now pending. The weight of legal opinion is on the side of their unconstitutionality on the ground that they represent class legislation and involve unequal and unfair taxation.

On December 18, 1899, the Supreme Court of Illinois declared unconstitutional the ordinance of the Chicago City Council, which prohibited any store which sells dry goods from also selling under the same roof, provisions, groceries or liquors. The court held that such legislation could only be valid when necessary to protect the public health, and as no such basis was claimed in this case, it virtually deprived the citizen of his property without due process of law.

In his recent testimony before the Industrial Commission (December 9, 1899), Hon. John Wanamaker made some interesting statements and expressed some fresh opinions from the standpoint of an expert. Briefly summarized his points were these: (1) The department store has no other right to exist than that which comes from its service to society. The rights of owners of such establishments are subordinate to the welfare of the public. The modern department store, properly conducted, is a distinct benefit to society, and its success is not secured at an undue cost to the community. While the ordinary motive of money-making inspires owners, yet that purpose is not inconsistent with advantage to the public. (2) The modern department store is not an artificial device, but a natural evolution from modern economic conditions. Some of those conditions are, command of cheaper and more abundant capital, better transportation and quicker transmission of intelligence, development and concentration of executive capacity, the evolution of the science of organization, the determination of producers to reach consumers directly and the tendency of trade to move along the lines of least resistance. (3) Economy in the expenditure of money, time and effort measures the success of the department store. Just in proportion as these ends are secured by it is it popular and successful. Through the better economic conditions, resulting from great concentration and organization of distribution by the department store, the whole business is handled more cheaply and the consumer gets the benefit of this vast saving. The manufacturing producer sells and the department store buys from him in very large lots; the former reduces his risk of loss and often wholly saves his usual expense of selling. There are no intermediate profits or commissions to jobbers, commission dealers, agents or other middlemen. All along the line economies result and there is every reason why the department store should reduce retail prices, since such reduction represents a saving. Prices are reduced to the consumer very largely. All of the reductions in prices created by the producer's or manufacturer's savings, plus the reduction in retail profits consequent upon the concentration of large distribution at a single point, should go to the consumer. That this is the practical result is shown in the low retail prices that generally prevail.

Upon American dry goods generally the retailer's percentage of profits has been reduced one-half during the last twenty years.

This is true upon woolen, silk and cotton fabrics. The total per cent of reduction in prices to the consumer cannot be stated owing to the varying standards of qualities and taste and improvements in manufacture. But the consumer saves the entire reduction in the retailer's profit. It can also be stated with a fair degree of certainty that the net profits of the great retail stores vary from 3 to 6 per cent on the dollar of business done. Thus it will appear that the modern retail merchant is giving public service at a rate of profit so small as to be merely a commission. There does not exist in retail business any known combination for the control of any merchandise, nor for the fixing of prices either in the interests of merchants or manufacturers. The entire practical influence of the modern department store is powerfully against monopoly in any branch of manufacturing or selling. Retail merchants, in common with the public, may be the victims of combinations to control prices and create profits, but they are not and never have been parties to such measures. Public service is the basic condition of retail business growth. To give the best merchandise at the least cost is the modern retailer's ambition. He cannot control costs of production, but he can modify costs of distribution and his own profits. His principle is the minimum of profit for the creation of the maximum of business. It is possible for retail merchants in several localities to combine purchases for the sake of economy, but such cooperation differs widely from the organization commonly known as trusts. Neither would it affect retail prices, save to reduce them. More than the total number of persons thrown out of employment in wholesale and retail stores by modern competition find employment in the department stores at increased remuneration.

Evidently referring to his own business, Mr. Wanamaker said: "Within its organization are numerous places that for liberality of compensation would be more attractive than 90 per cent of the presidencies of the banks, trusts or insurance companies of the United States. It has places that pay salaries between $5,000 and $20,000 a year, and other positions that command between $2,000 and $5,000 a year. This line of analysis could be carried to the lower classes of employment and the resulting facts would be in harmony with the proposition that the employes of the store in question are better off than they could be possibly if engaged in small retail storekeeping. Department stores have shortened the hours of labor, and by systematic discipline have made it lighter. The small store is harder upon the sales person and clerk. The effect upon the character and capacity of employes is good. A well-ordered modern department store is a means of education in spelling, writing, English language, system and method. Thus it becomes to the ambitious and serious employe, in a small way, a university in which character is broadened by intelligent instruction practically applied. The department store of the period is beneficial to society, and therefore has a substantial, economic and moral basis for its existence."

TRUSTS AND ORGANIZED LABOR.

In the "American Federationist" for October, 1899, Samuel Gompers, president of the American Federation of Labor, has the following article, purporting to indicate the attitude of organized labor toward the trusts. It will be observed that its tone is not unfriendly to them:

PRESIDENT GOMPERS' VIEW.

A Word on Trusts.—We are all conscious of the giant strides with which industry during the past decade has combined and concentrated into the modern trust. There is considerable difference of opinion, however, as to what is regarded by many as an intolerable evil. Organized labor is deeply concerned regarding the "swift and intense concentration of the industries," and realizes that unless successfully confronted by an equal or superior power there is economic danger and political subjugation in store for all.

But organized labor looks with apprehension at the many panaceas and remedies offered by theorists to curb the growth and development or destroy the combinations of industry. We have seen those who knew little of statecraft and less of economics urge the adoption of laws to "regulate" interstate commerce and laws to "prevent" combinations and trusts, and we have also seen that these measures, when enacted, have been the very instruments employed to deprive labor of the benefit of organized effort, while at the same time they have simply proven incentives to more subtly and surely lubricate the wheels of capital's combination.

For our part, we are convinced that the state is not capable of preventing the legitimate development or natural concentration of industry. All the propositions to do so which have come under our observation would beyond doubt react with greater force and injury upon the working people of our country than upon the trusts.

The great wrongs attributed to the trusts are their corrupting influence on the politics of the country, but as the state has always been the representative of the wealth possessors we shall be compelled to endure this evil until the toilers are organized and educated to the degree when they shall know that the state is by right theirs, and finally and justly come to their own, while never relaxing in their efforts to secure the very best possible economic, social and material improvement in their condition.

There is no tenderer or more vulnerable spot in the anatomy of trusts than their dividend paying function, there is no power on earth, other than the trade unions, which wields so potent a weapon to penetrate, disrupt, and, if necessary, crumble the whole fabric. This, however, will not be necessary, nor will it occur, for the trades unions will go on organizing, agitating and educating, in order that material improvement may keep pace with industrial development, until the time when the workers, who will then form nearly

the whole people, develop their ability to administer the functions of government in the interest of all.

There will be no cataclysm, but a transition so gentle that most men will wonder how it all happened.

In the early days of our modern capitalist system, when the individual employer was the rule under which industry was conducted, the individual workmen deemed themselves sufficiently capable to cope for their rights; when industry developed and employers formed companies, the workmen formed unions; when industry concentrated into great combinations, the workingmen formed their national and international unions; as employments became trustified, the toilers organized federations of all unions—local, national and international—such as the American Federation of Labor.

We shall continue to organize and federate the grand army of labor, and with our mottoes, lesser hours of labor, higher wages, and an elevated standard of life, we shall establish equal and exact justice for all. "Labor Omnia Vincit."

GENERAL SECRETARY WHITE.

[Of the United Garment Workers Association.]

We are witnessing a transformation in business methods as complete and as sweeping as the industrial revolution of a century ago. The latter came as the result of scientific progress, and the present one is due to the evolution of competitive business. They were both necessary to social progress, although it has been attained at the cost of much suffering. Just as Nature works out her ends in a large way—without regard to individual cases—so with society, and we must adjust ourselves to the change. The trusts are here to stay; we must look the situation in the face and endeavor to remedy the evils which have come with them. Now, what are these evils which have aroused such antagonism, and which one is the greatest? I think it will be agreed that it is the despotic power which the aggregations of wealth con wield and by which courts are influenced, legislatures controlled and privileges purchased. This constitutes a real menace. History and our own experience teach how irresponsible power is usually abused. The industrial combinations are irresponsible, because individuals who comprise them, while sharing in the profits, disown personal responsibilities for the management, and their purposes are sordid, although they serve the purpose of society. That is why it is imperatively necessary that they should be controlled and their affairs regulated so that they will be confined to their proper sphere of activity. This is the real problem.

Our legislatures, we know only too well, are limited in their responsibilities. What is needed, in order to meet this new situation, is a larger control over legislation on the part of the people, and for that reason I suggest the wider extension of the referendum principle, by means of which important laws would have to be sanctioned by vote of the people before going into effect. The labor organizations have endorsed the principle, and, if generally introduced, I think it would tend to allay the alarm felt over the growing power of corporations. The effect the trusts have upon the middleman, and the disarrangement they cause, I regard of secondary im-

portance, because the systematic organization of industry, by means of which production is cheapened, without requiring reduction in wages, extends consumption and widens the opportunities for employment. This more than compensates for the temporary displacement which the economy of the trust method makes necessary. The distinction must be made that wherever trusts are artificially created—through a monopoly franchise, special privileges and other advantages—our efforts should be directed towards removing the means which enable the corporation to control the market other than by merit and superior service. Now, on this question it is anxiously asked—where do the trades unions stand? Well, the average union member thinks just as the ordinary individual does, with this difference: He has the advantage of the practical education which the union affords. Its meetings are really classes in political economy. He is forced to face and understand things as they are. He is not idly lamenting the past or worrying about the future in a way to make him morbid. This is particularly true of the leaders of the movement, and it is remarkable how the thinking men and the heads of the national unions whom I have consulted are agreed as to the attitude to take, and that policy is to watch developments closely, and be governed by the attitude of the trusts toward their movement; in the meanwhile to strengthen their organizations so as to prepare for any hostile action and meet organization with organization. So far the trusts have been making friendly advances—as, for instance, in the case of the glass and iron and steel trades, where long-term agreements have been entered into, and by which the workers share in some of the benefits of the trusts.

The leaders are fully conscious also of the dangers which confront them should the powerful corporations, when they feel more secure, attempt to crush the movement; but instead of railing against them, they are preparing for the supreme trial. That they will be equal to the test, I have no doubt, because the movement for economic democracy has proceeded too far to be destroyed. We know that where workingmen are employed in larger groups they can be more readily united, and there is no power which can withstand them when animated by a common purpose. If, perchance, trade unions should be destroyed, it would be a calamity indeed, because democratic institutions cannot exist where the workers are dependent or servile. The unions have their faults, because they are composed of persons with usual shortcomings and incapacities, but their great merit is this: That they instill the spirit of self-help and create higher aspirations; they represent the movement of the mass of the people for a larger share in the benefits of civilization, and for a higher standing in society. The very reverses which they have met with have made them more practical and broad-minded and as a consequence the unions have discarded the visionary agitation which once distinguished them.

At the annual delegate convention of the American Federation of Labor, held in Detroit in December, 1899, the resolutions adopted took the position that the trust movement cannot be stopped nor

effectively regulated; that it will develop and proceed through the absorption of one trust by another, until practically a single trust monopolizes all leading industries, and then society will step in and claim its own by assuming ownership and control—in other words, that socialism, through government ownership is now the inevitable outcome of the trust contagion. This is a significant utterance.

THE FLOUR-MILLING INDUSTRY.

The writer of the following is EX-GOVERNOR JOHN S. PILLSBURY of Minnesota, leading proprietor of the great Flour-Milling Industry of Minneapolis.—THE EDITOR.

[Contributed.]

OFFICE OF THE PILLSBURY-WASHBURN FLOUR MILLS CO.
MINNEAPOLIS, MINN., NOV. 2, 1899.

Dear Sir:—We do not consider the forming of trusts, as generally organized, to be beneficial to the people of this country. One serious objection to the trust is the issue of what is termed watered or fictitious stock which does not represent actual values. As is well known, trusts are made up by the consolidation of several concerns, the properties of which are put in at prices much beyond their actual values. The prices for goods manufactured must necessarily be advanced in order to pay dividends on the amount for which the trusts are capitalized. For other reasons also, prices of goods manufactured can be and are made much higher to the home consumers than before the trusts were formed. The parties who form trusts are men whose chief interest is in the profits they can make. The managers are never satisfied with a reasonable profit, but are determined to make an exorbitant one. Enormous profits are always made by the promoters also, who are the persons chiefly active in forming the trusts. After taking their profits, their interest in such concerns is ended. Many times a trust is formed largely of idle or inferior plants put in at exorbitant prices and kept idle thereafter for the purpose of controlling the market. The object is simply to destroy all competition. The trust of to-day is simply a monopoly.

It is claimed that trusts are beneficial in that they increase our export trade by being able to compete in foreign markets. Is this not a very erroneous reason for creating trusts? How can a trust supply a foreign market where it is obliged both to compete with cheaper labor and to pay dividends on large amounts of stock which represents fictitious value? With trusts as formed in these days, I believe it to be a fact that prices in every

instance have been advanced for goods made whether such an advance was necessary or not. Not only have prices been advanced, but wages of labor employed have often been reduced, as instance the case of the Linseed Oil Trust.

The Pillsbury-Washburn Flour Mills Company preemptorily refused to put their flour mills or other property into a flour trust or to be a party to forming a monopoly in the flour trade. We believe that stupendous flour trust, in order to pay higher dividends, and returns on the fictitious values of many of the inferior properties absorbed, would be obliged to advance the price of flour to consumers and to reduce the price of wheat to farmers—a policy that this company would never countenance for a moment. The Pillsbury-Washburn Flour Mills Company believe in honorable competition in all respects, and we believe that we can pay fair dividends on our capital and still meet all honorable competition. We are willing to purchase our wheat in open market and to sell our product at a fair living profit. We do not rely on a monopoly in our business and we do not believe in the forming of gigantic trusts in any business, for, as I have stated, the effect intended and the general tendency are to reduce the price of the raw material and to advance the price of the product manufactured. Very respectfully,

J. S. PILLSBURY.

A VOICE FROM NEW ENGLAND.

By U. S. Senator W. E. Chandler, New Hampshire.

[Contributed.]

Concerning trusts, four points suggest themselves. (1) What is a trust, as the term is used in present discussion? (2) What are its alleged benefits? (3) What are its evils? (4) How and by whom should they be suppressed?

I.

A trust is an association of separate individuals or corporations having in view the control of the production of some article of merchandise and the increase of price thereof to the consumer by preventing competition in the sale of the product. Such a trust is usually made up of a combination of corporations, because neither individuals nor partnerships of individuals are willing to invest sufficient capital in individual or partnership enterprises to accomplish the monopoly of the production and

the suppression of competition. In addition to trusts composed of various corporations, there is another trust, namely, a single corporation of sufficient magnitude to take control of the whole production of the article of merchandise and crush out competition and keep up the price

II.

The alleged benefits of trusts are that production on a large scale allows the adoption of improved and cheaper methods, and that the economy of cost resulting will enable the producer to lower the price of the product to the consumer.

III.

The evils of trusts are that they do not in fact lower the price of the product to the consumer. They may do so temporarily, but in the end it is a just judgment to say they will result in higher prices than will be charged if trusts are suppressed. The economies resulting from improved and cheaper methods of production undoubtedly lessen the cost of the article to the producer. What will he do with the gain thereby made? He may give it to the consumer if he chooses, or he may pay it out in inordinately enlarged salaries to the managers of the business, or he may pay it in large dividends to the capitalists and thus build up their millionaire fortunes. What in all probability will the trust managers do with the saving they make in the cost of production? They are under no compulsion which will lead them to give it to the consumer through a reduced price, because there is no competition to force them to do this. Necessarily, as human nature is constituted, they will pay it out in enormous salaries to their managers or in huge dividends to themselves. It must be considered a sound conclusion that if trusts multiply as they have during the last two or three years and go on unhindered to full ascendency, they will raise the prices of all commodities higher than they would have been without the existence of the trusts and under the influence of free competition.

Here now we come to the fundamental and fatal objection to trusts, and that is, that they are intended to destroy and will destroy competition in business pursuits in the business world, throughout human society. The great foundation of human progress is the right of private property. The best condition of human society is equality of opportunity in the business world. Individualism and the struggle of each man to create and acquire property has helped forward civilization and prosperity as no other agency has done. This topic might be enlarged upon at any length, but it is sufficient now to assert that the opposition

to trusts is based upon the certainty that if they are allowed to flourish unrestrictedly, they will destroy competition as a business principle, crush out individualism and put the control of society, its property, its politics and its government, into the hands of opulent oligarchies.

IV.

How are trusts to be suppressed? In the simplest and easiest possible method—by the state legislatures which create corporations. Trusts will never be very dangerous while maintained only by individuals or partnerships of individuals. The powers and functions of artificial persons, namely, corporations, are necessary to the success of huge combinations of capital. The state legislatures may therefore in the exercise of the police power of the state and their general powers of sovereignty and of their complete discretion to allow or suppress corporations within their borders, proceed to the suppression of trusts and monopolies by passing laws regulating and controlling the privileges of corporations. The national government does not charter corporations. The corporations under our present system are the creation of the state legislatures. To the legislatures the appeal should be made for defense against the oncoming despotism of trusts. (1). A legislature may provide that separate corporations shall not contract with each other for the purposes which trusts seek to accomplish. (2) The legislature may specify the business which every corporation shall engage in and confine it to one subject of commerce. (3) It may limit the capital and debts of every corporation; that is to say, it may keep its size so small that it cannot be dangerous as a destroyer of competition. In other words, a legislature by suitable penal statutes can do all, and more than all, that is necessary to prevent the existence and operation of any monopoly consisting of one corporation, or of any trusts and monopolies consisting of two or more corporations.

The national government has a broad field within which to suppress corporations, namely, the field of transportation and interstate commerce, and can supplement state legislation with powerful effect. The writer of this has not given special attention to the particular legislation in state or nation which should be enacted. Mr. Bryan has suggested that Congress might prevent a corporation of any state from doing business in another state, except under certain limitations. This would be a most unwise use of national power and an encroachment upon states rights to which even a strong federalist like myself would not wish to assent. If Congress can keep a state corpora-

tion out from other states except on its agreement to comply with certain conditions, each state can do the same thing. If Congress does this instead of the state legislature, that will be the beginning of the end of states rights, and old-fashioned Democratic principles will have been entirely abandoned by the Democratic party.

It remains to be said that it is folly to make assaults on the tariff in connection with opposition to trusts. The tariff is largely designed to protect certain industries of this country which otherwise would be destroyed by competition from abroad. Take the tariff off woolen goods and every woolen mill in the United States would close in three months. This would indeed destroy all American trusts in woolens, but it would do infinite mischief to the country and no good to anyone, for the American consumers would be immediately placed at the mercy of foreign trusts. To destroy an industry in order to destroy a trust is rank folly, when the real object should be to destroy the trust and save the industry. Annihilating the industry crushes out the individual producer just as completely as it does the trust engaged in producing the article. The most serious obstacle now existing in the way of effectively suppressing trusts is the disposition of the Democratic party to make its movement against trusts a part of a renewed assault upon that beneficent system of protection by tariff duties to American industries and American labor, which is alike the glory, strength and prosperity of the Republican party and of the whole United States.

W. E. CHANDLER.

November 1, 1899.

THE ST. LOUIS ANTI-TRUST CONFERENCE.

The following recommendations were adopted September 21, 1899, by the Anti-Trust Conference of Governors and Attorneys-General, held at St. Louis:

The committee on resolutions, to which was referred several resolutions and papers in lieu of all of them, submit the following, with the recommendation that it be adopted by this conference: That we believe the best present available remedies be along the following lines:

"1. The enactment and enforcement, both by the several states and the nation, of legislation that shall adequately and fully define as crimes any manipulation or restraint of trade in any line of industrial activity, with provisions for adequate punishment both of the individual or the corporation that shall

be found guilty thereof, punishment to the corporation to the extent of its dissolution.

"2. The enactment by each of the states of the Union of legislation for the adequate and proper control and regulation of corporations chartered by that state, and we recommend as efficacious a system of reports to and examinations by state authority of the corporations organized under its laws, to the end that they be brought to a fair observance of the laws under which they are created.

"3. The enactment by each state of laws that will prevent the entrance of any foreign-created corporation into its limits for any other purpose than interstate commerce except on terms that will put the foreign-created corporation on a basis of equality with the domestic-created corporation of the state entered and subject to the same laws, rules and regulations of the state that it enters, which are applicable to the domestic corporations of that state, and to this end we recommend legislation that would make it mandatory upon corporations seeking to engage in business outside the state of their creation that they procure licenses from the foreign state as a condition precedent to their entry into such state; such license to be granted on such terms and subject to such restrictions as will place the corporation subject to the same control, inspection, supervision and regulation as the domestic corporation of that state, and subject to be revocable if the conditions thereof are violated.

"4. The enactment of state legislation declaring that a corporation created in one state to do business exclusively in other states than where created shall be prohibited from admission into any state. This proposition is supported by decisions of the Supreme Courts of several states, but we believe it should become legislative enactment, uniform throughout the states.

"5. That no corporation should be formed in whole or in part by another corporation.

"6. That no corporation shall own or hold any stock in another corporation engaged in a similar or competitive business, and that no officer or director of a corporation shall be an officer or director or the owner of stock in another corporation engaged in a similar or competitive business, the object or result of which is to create a trust or monopoly.

"7. Recognizing that trusts are usually composed of corporations, and that corporations are but creatures of the law and can only exist in the place of their creation, and cannot migrate to another sovereignty without the consent of that sovereignty, and that this consent may be withheld when desired, we recommend as the sense of this conference that each state pass laws

providing that no corporation which is a member of any pool or trust in that state or elsewhere can do business in that state.

"8. That it is the sense of this conference that all the capital stock of private corporations should be fully paid, either first, in lawful money, or second, in property of the actual cash value of the amount of the capital stock. And that in all private corporations with a capital stock issued in excess of the amount actually paid up, as above provided, the shareholders shall be liable to the extent of twice the face value of the stock held by each."

COMMENT BY GOVERNOR SAYERS OF TEXAS.

Next to the war itself and to the incidents directly connected with it, the wonderful revolution that has occurred in business life is calculated to arouse the greatest anxiety in all thoughtful minds. For the past quarter of a century we have heard much of trust formation, and notes of alarm have sounded, again and again, to warn the people of the danger that threatens them in that direction. But during the past two years that which was previously but a shadow on the horizon has become a dark and portentous cloud, and on every side and from every quarter are heard warnings of imminent danger that should no longer pass unheeded.

Certainly, these aggregations of capital in such extraordinary and unprecedented amounts, controlling, as they do, the production, distribution and sale of commodities in universal use, all under the management and direction of a few persons, cannot but excite gravest apprehension in the mind of every thoughtful and patriotic citizen. The power which such associations can and do exert does not accord with the spirit and policy of free institutions. The possession of extensive authority, supplemented with the means for its arbitrary and unrestrained exercise is always denied in every just and well regulated government. This principle holds equally good in matters affecting industrial and economic life, where government has conceded privileges to one or few individuals that are not enjoyed by all. Every combination and association of any magnitude in this country under the name or guise of a trust, almost without exception, owes its existence to a governmental grant of privilege, exemption and power. In this form of business activity the individual very rarely, if ever, ventures his entire wealth and credit, but shields himself under the protecting advantage and immunity of a corporate existence, created by statute.

Were it not so, trust formations would be fewer in number, smaller in magnitude and less dangerous to society. The fact that the trust almost universally owes its very life to the creative power of public authority, makes it the imperative duty of government to protect the people against any abuse or misuse of its opportunities to the detriment of the general welfare. This is, in my opinion,

a complete answer to any objection that might be urged against governmental interference to restrain and, if needs be, to entirely destroy the trust power whenever it shall have become hurtful or perilous.

The character of our government increases the difficulty of a prompt and proper solution.

Constitutional obstacles lie in the way and the evil can not be eradicated by either federal or state authority acting singly. There must be co-operation between both governments—general and local—each working earnestly and sincerely within its own sphere. The causes of the evil must be sought for, and when found must be removed. There appears to be a difference among intelligent and patriotic men as to how the subject should be dealt with. One class of thinkers attributes the trust to federal legislation only and contends that relief is to be found exclusively in the halls of Congress. Another class ascribes it to the policy of the states in the too liberal allowance of chartered rights and privileges for purposes that can not be considered public in their nature.

Those who are familiar with the delay of Congress in accomplishing reforms, will not allow themselves to be lulled into the belief that nothing must be done through local legislation to overcome the great and acknowledged evil that is to be considered by this conference.

Again, however willing, Congress can only proceed to a certain extent in granting the desired relief.

The rights of the states, as interpreted by the federal constitution, will not permit a trespass upon the domain of local authority, and there are questions involved that must be determined by the Legislatures. Much of the trust power, it must be admitted, is due to corporate organization, and this is in turn indebted for its existence to local legislation.

The conclusion, it occurs to me, is inevitable that in order to successfully meet this threatening danger, both the Congress and the Legislature—supplemented by the active, earnest and sincere efforts of executive authority and of an able, patriotic and incorruptible judiciary—must be called into contribution, and each must be required to do its part under constitutional limitations and entire harmony with the other. This movement cannot rightfully be construed as a war against capital. Far from it. Capital must be protected against its own unhallowed aggressions, or it will surely suffer the death of the suicide. It cannot be justly held an act of hostility to capital for the law to say to the strong and unscrupulous that the weak must not be destroyed.

In making the few, who are so situated as to control large aggregations of money to know that such control shall not be exercised to the injury of the people and of their institutions, war is not declared against capital.

SOME TRADE COMBINATIONS IN ENGLAND.

The Birmingham Plan of Combination and Coöperation—A Minimum Wage and Minimum Selling Price—No Monopoly Attempted—Trades Unionism Encouraged—Cut-throat Competition Stopped—Coercion Applied to Objectors—Spread of the System—Weak Points Developed—Some Pointed Criticisms.

During the past few years, and notably since 1896, there has developed in Great Britain an economic and industrial movement as unique as it appears to be important. It seems to have no specific name, but inasmuch as it has had its origin and best demonstration in Birmingham, and Mr. E. J. Smith, who devised and first applied it is a Birmingham manufacturer, it may as well be identified as the Birmingham Plan of Combination with Co-operation. It has already earned a reputation for great success in practice, is being widely adopted by various manufacturing industries in England, and is profoundly stirring economic thought and interest in Great Britain and elsewhere. It is regarded by not a few statesmen, economists, manufacturers and representative workingmen abroad as furnishing a substantial and permanent remedy for the immeasurable evils heretofore wrought by destructive competitive warfare among manufacturers and the resulting industrial warfare between often hard pressed manufacturers and their discontented employees.

In a nutshell the method is this: The manufacturers in a given line, being tired of the war basis of doing business, meet in conference, and enter into an alliance offensive and defensive. They bind themselves not to sell without previous consent of the alliance committee below a certain scale of minimum prices, which is always above cost as carefully ascertained. They take their workmen into their counsels and confidence, and these bind themselves not to work for any employer who cuts scale prices. The manufacturers are attracted and held to the new plan by fixing prices high enough to give satisfactory profits. The men are attracted and held by an automatic system of profit-sharing, with arbitration and other benefits. The whole combination is held together, first, by honorable observance of the agreement; and, second, by a sharp-eyed committee which permits no rate-cutting or other breaches of faith. The door is open for every manufacturer present and prospective to enter the alliance on easy terms, and a competitor who remains outside and cuts prices is fought by the well-known trade methods and otherwise coerced into submission.

(1) When a trade desires to form an alliance, the first step is to ascertain most carefully and conclusively the "actual costs of production." Political economists have stated that these are known to very few manufacturers. Mr. Smith is of a similar opinion. In

certain industries, where there is a great deal of intricacy in the manipulation of the raw materials and the manufactured article, it requires considerable scientific knowledge and patient work to ascertain costs.

Having ascertained this element of cost, then to prevent manufacturing being carried on at a loss, a minimum price scale is adopted. A representative article, like a certain pattern of bedstead or one dozen plates of a given size and shape, is taken as a basis to ascertain how much it costs to manufacture; the manufacturers agree on the minimum rate at which it can be made; then a certain percentage is added for profit, and this forms the minimum selling price for that article. The manufacturers bind themselves, by the rules of the alliance, not to sell, without the consent of the alliance, below this minimum price. The workmen are also offered certain interests in the success of the business, and, both parties being mutually dependent, there is no occasion for strikes, lockouts or trade disputes.

No Monopoly Attempted.—Monopoly and monopolistic tendencies or prices are claimed to be rendered impossible by the fact that the door is left open to every one. No restrictions are placed upon the admission of any reputable candidate for admission to an alliance.

This policy of the open door makes it certain that enough new concerns will enter business, under the favorable conditions furnished, to prevent excessive profits. Besides, all members of an alliance are at liberty to compete with each other down to the level of the minimum scale agreed on. Each manufacturer keeps his own traveling men in the field, and pushes his business as interestedly as though there were no combination—for there is no pooling of results and each manufacturer's success depends as before on his own energy and effort, and the merit of his methods and his goods.

The ordinary expenses of management are met by quarterly levies on the associated manufacturers.

Inducements to the Employees.—(a) The wages, hours and conditions of labor existing at the time the employers' alliance is completed are guaranteed as long as the alliance lasts. (b) A wages and conciliation board is formed, in which the workmen have an equal right in every way. This board has absolute power to settle all disputes which cannot be arranged in the respective works, on terms in keeping with the rules of each alliance. Any extraordinary conditions already existing at date of forming an alliance may be brought before the board for friendly advice, but it has no power to insist upon changes. But in all new questions its power is absolute; and if an agreement cannot be reached, an arbitrator is called in, whose decision must be accepted by both parties. So far, an arbitrator has never been needed. Until the dispute is settled, the workmen accept the employers' terms under protest. When the question is settled by the board, the decision is retroactive, so that the delay necessary to adjust the matter is not prejudicial to either party. Strikes and lockouts are thus made impossible.

Trades-Unionism Fully Supported.—The employers, having formed a union amongst themselves, give their support to trades-unionism in every way. They employ none but unionists, so that the workmen

must form a union if none exists. On the other hand, the workmen refuse to work for any but associated employers. If, therefore, any member of an alliance leaves or is expelled for any just reason, his workmen must leave his employment. While such a dispute lasts, the cost is shared equally between the two associations.

During the past two years such writers as Sidney Webb, Professors of Oxford and Cambridge Universities, and several eminent political economists of the continent of Europe have been studying the working of Mr. Smith's plan, and have written him in approval of it. Recently Secretary Hay of our Department of State, sent a representative to Birmingham to investigate, as did also the German Emperor. In Denmark, Canada, New Zealand and Australia the movement is said to be taking root. Mr. Smith expresses disapproval of the modern American trust system, believing that it is based on a wrong principle and tends to destroy individuality and cause overcapitalization, with resulting injustice to the public and unsafety to the industries themselves. Every one of the 52 manufacturers in the country is in the alliance. Prices have been advanced to the profit-producing point and the workmen in the entire industry are regularly receiving a bonus of about 30 per cent on the wages which they were receiving when the organization was formed, and strikes or other serious frictions are unknown. Mr. Smith is now kept busy, as an employed expert, helping to organize other industries than his own. Directly and indirectly his movement now affects more than 30,000 operatives, 500 employers and stockholders representing $75,000,000 of capital. He expresses the opinion that in less than ten years nearly all the factories of England will be running under the new system.

At the recent Chicago trust conference Mr. A. W. Still, a Birmingham editor, contributed a paper in which he vigorously attacked Mr. Smith's system of trade combination. His main criticisms were: (1) That the plan involves monopoly of rather an offensive sort; (2) that, largely because of the successive bonuses or indirect increases of wages to workmen, it has been necessary to nearly double the selling prices of bedsteads, which is the particular industry in which Mr. Smith is interested; (3) this exorbitant advance in prices is oppressive to consumers, and has naturally and greatly stimulated outside competition and enormous expenditure has been necessary to resist this rivalry; (4) the high prices have also led to extensive secret underselling by members of the association and additional large expenditures have been necessary to detect and punish these infractions of rules; (5) and finally several leading concerns have withdrawn from the Smith Alliance because they were unwilling longer to participate in the agreed methods of coercing or "clubbing" competitors into joining the combination. Some of the Smith trade combinations, Mr. Still contends, show signs of dissolution because of these inseparable evils.

THE POPULIST POSITION.

Hon. Marion Butler, U. S. Senator for North Carolina, speaking for the Populist party or element which he represents, authorizes the following summary of his views for this volume:

First remarking that both President Cleveland and President McKinley have fruitlessly gone out of their way to warn the country in official utterances against the aggressions of the Trusts, which everybody denounces and nobody obstructs, and that the Republican party and the Democratic party have in succession enacted Federal anti-trust statutes, the Senator declares that so far all such legislation has been both insincere and futile—akin to an attempt to cure cancer with a sticking plaster, instead of removing from the blood the poison that produces the cancer. He submits that the only rational and effective way to remove trusts is by removing the causes that produce them. The prime cause of trusts, he declares to be this: The American people have permitted the capitalists and trust-builders to get and keep control of the three great instruments of commerce—Money, Transportation and the means of Transmitting Intelligence—in other words, the Currency, the Railways and the Telegraph.

These three great instruments of commerce are the all-powerful agencies in the industrial world. For individual and independent business enterprises to spring up and prosper it is indispensable that every man and every business should have an equal opportunity to use these vital instruments of commerce on the same terms as his competitors. Therefore these agencies should not be in the hands of those who could use them to discriminate to destroy competition. The men in any country who control these instruments of commerce will thereby hold the fate of all the people in their hands and will become more powerful than the Government itself—indeed, will own and run the Government. Therefore, those life-giving or death-dealing instruments of commerce should be the property or under the control of all the people, open to all alike on equal terms.

But with this triuity of natural monopolies in the control of a few dozen multi-millionaires with their retinue of satellites, urged on by the quenchless greed of gain and invited by opportunities and rewards surpassing the dreams of avarice, trusts are not only possible, but inevitable in every line of trade, industry and finance.

They are the three mother trusts—the trust on money, the trust on transportation and the trust on transmission of intelligence—and the few manipulators of these trusts have the power to put any and every business into a trust at will. During the last few years the American public have had almost every day striking object lessons of the truth of this statement. What is the result? To-day the few men who own and control the nation's instruments of commerce practically own and control every business enterprise in the nation. Competition is dead, and 75,000,000 of people are at the mercy of a handful of rapacious plutocrats. This condition is here and here to stay until the people arouse from their lethargy, assert their power and resume control of the three agencies which are omnipotent in the business world. "Resume control" is used advisedly. When the founders of this republic were doing their almost inspired work, they reserved to the people absolute control and management of the three potential instrumentalities referred to, as they then existed, thus establishing a precedent and principle capable of adaptation to any changes which time and development might bring. The circulating medium was made promptly responsive to popular needs. Transportation was then represented by the wagon-road and water-ways and the privilege of their use was made the property of the public and the equal convenience of all. The transmission of intelligence was solely by written or printed communications and accordingly the postal service monopoly was made a government function and has so continued. But when the steam railway for all commercial purposes supplanted the wagon-road and water-ways, evil counsels prevailed and instead of being made public highways for the equal convenience of all citizens on equal terms, these natural monopolies unnaturally fell into private ownership and the personal control of the few. When the telegraph, for all effective and practical purposes in business and in the gathering and distributing of public intelligence, replaced the mails, evil counsels again prevailed and "private enterprise" was once more permitted to usurp the place of the sovereign, the people, and to-day this tremendous engine of influence and power, the pulse-throb of seventy-five millions of dwellers in the greater republic, is absolutely controlled by five men, who are practically accountable to no superior. In an evil and unguarded hour the control of the volume of our money passed into the hands of a foreign banking ring. In railway transportation, one man, J. P. Morgan of New York, representing a Hebrew syndicate in London, is master of 75,000 miles of road in the United States, and sitting at a table in Wall Street with a dozen associates or subordinates, can any day raise or lower freight or passenger tariffs throughout the continent, discriminate for or

against any section, interest or individual, build up one community and crush another. So long as this is true, and so long as a trust or an allied group of trusts, by controlling the telegraph, can at will suppress the truth, promulgate commercial fiction, color facts and edit the news columns of great journals, there is no hope or prospect of freeing the country from the grip of the Trust octopus. Return the three puissant instruments of commerce—money, transportation and the transmission of intelligence—to the hands of the people, where they have always belonged, and trusts and combines will surely retire, just as the tentacles of the devil-fish relax their hold when the monster is thrust through a vital part.

GOVERNOR THEODORE ROOSEVELT.

In his speech at Akron, September 23, 1899, opening the political campaign for the Republicans in Ohio, Governor Roosevelt spoke as follows in relation to the trust issue as presented in that state:

Our opponents [the Democratic party in Ohio] denounce trusts. But they propose not one remedy that would not make the situation ten times worse than now. I have read through carefully the speeches of Mr. Bryan and of his fellows to find out what they propose to do. I have found plenty of vague denunciation. I have not found so much as an attempt to formulate a national policy of relief. In the Democratic platform in Ohio, just two measures of relief are proposed—the first, that you should change the tariff because it favors trusts; and the second, that you should coin silver in the ratio of 16 to 1 without regard to the action of any other nation.

The two remedies our opponents propose—altering the tariff and debasing the currency—could have no possible effect in abating the evils of the trusts, and could hurt those who profit by the trusts only to the extent that they hurt every member of the American business community, from the capitalist to the day laborer.

The Republican Remedy.—Our opponents say we Republicans have no remedial plan. We have. We propose to meet the problem in the only way in which it can be met, by cool and careful study, by finding out what the facts are, and then by exhausting every legitimate power, legislative, administrative, and judicial, to regulate the industrial movement, and to cut out all abuses. Corporations (for what we commonly call trusts are generally

merely big corporations) render great services, and are indispensable instruments of industry in our modern life, but their growth has been accompanied by the growth of evils, which we can but remedy by common sense and common honesty—not demagogic outcry.

More definitely our plan is, as a first step, to try the effect of publicity, and then to supplement publicity by taxation, and then by licensing or whatever measure experience shows to be effective. Before hitting we must know exactly what we are hitting at, and whether the blow will hurt more than it helps. The first thing to do is to provide for full investigation of and exhaustive report on all these corporations, especially all the corporations which have grown to be of such dimensions as to control any considerable portion of a given trade, industry, or product—in short, those corporations which we mean when we speak of trusts. The mere letting in of the light will in itself cure many evils, especially those of overcapitalization, and the undue suppression of competition, and, as for the evils that remain, when once we can see them clearly and distinctly, the remedy can readily be devised without entailing upon the innocent the misery that will surely follow any blind and ignorant attempt to smash parts of our modern industrial machinery, without taking the trouble to find out their relations to our industrial life itself.

Let us find out every important detail of the business of the great corporations examined, the amount of stock, the amount of bonds, the terms upon which issued, the salaries of the highest employes, the wages and aggregate of wages paid to the others, the output of the product, and the price at which it is sold, so that in each case we may find whether the combination has resulted in raising or diminishing production, prices and wages, and, in short, learn every detail which will show exactly what the process has been. Especially let us find out whether the trusts have any unduly favored relations with great transportation companies, whether favors are shown them that are not shown their smaller competitors, in violation of fair play and of the spirit of our interstate commerce legislation. Let us find out the facts fully, and then let us act on these facts, by legislative or executive action.

BANK SENTIMENT.

Outside of the large cities of the Atlantic seaboard the attitude of banks and bankers is very generally in accord with that of the communities which they serve, namely, in opposi-

tion to trusts. On October 11, 1899, at the annual convention of the Ohio Bankers' Association held at Columbus, a resolution was adopted to the effect that the convention "views with regret the tendency toward combinations of industries, especially when these combinations are organized on an unsound basis."

About the same date the Illinois Bankers' Association held its annual convention in Chicago and in the course of his opening address the president, John L. Hamilton, used the following language, with the evident approval of the convention:

This country is becoming alarmed over the rapid development of manufacturing and mercantile trusts, and there is certainly ground for alarm. It does not seem right and proper, this consolidation of industries into one gigantic organization for the control of any particular line of business. It was no doubt brought about in many of the first organizations for the reason that the plants as they were then being run were not paying dividends upon their investments. The success of these first combinations has opened up a new field to the promoter and with the returning era of prosperity capital has come from its hiding and it has been possible to float almost any kind of an enterprise, regardless of its real merits.

The consolidation of enterprises is working an injury to the banker, for it is driving many enterprises out of existence, thus crippling the earning capacity of our banks. Yet it would seem that the trust remains largely to be solved by the banker himself, for its success depends largely upon the credit that is given to its stocks and bonds as collateral security. The prudent banker, however, will see in these overcapitalized trust organizations an imminent danger for the future along financial lines. The great surplus of money at the present time finds the avenues of employment limited. These trust companies promise rich returns to the investors in their watered stocks. Money cannot lie idle while its owner needs the interest for the maintenance of himself and family. Thus these securities are finding a ready sale. But when the water is squeezed out and the real values are thus known will come the haste to realize, values will rapidly fall, collateral values will disappear, as the banks will not carry them, and we shall have a financial condition surcharged with the elements that may produce a widespread financial panic. The investment in these bewildering millions of trust combination securities seems to me to be the financial cloud in the future.

PRESIDENT HAVEMEYER.

Henry O. Havemeyer, President of the Sugar Trust, testifying before the Industrial Commission, June 13, 1899:

The mother of all trusts is the customs tariff bill. The existing bill and the preceding one have been the occasion of the formation of all the large trusts with very few exceptions, inasmuch as they

provide for an inordinate protection to all the interests of the country—sugar refining excepted. Economic advantages incident to the consolidation of large interests in the same line of business are a great incentive to their formation, but these bear a very insignificant proportion to the advantages granted in the way of protection under the customs tariff. There probably is not an industry that requires a protection of more than 10 per cent ad valorem, and it is to obtain what is provided over such precentages in the tariff that leads to the formation of what are commonly spoken of as "trusts." With a protection to an industry not exceeding 10 per cent, all menace to the community by trusts would cease. This 10 per cent would represent the difference in cost of production, and likewise act as a protection against surface products of foreign countries being dumped in our local markets, thereby interfering with the regular and economic working of our industries. Any advantages that might then accrue to such combinations they would be fully entitled to, and the public would not be damaged thereby, as any expansion of price would be met by foreign competition and relief. I have said that sugar was an exception. The rate of protection on sugar is an eighth of one cent per pound, which is about 3½ per cent ad valorem, and does not equal the difference in the cost of refining between this and foreign countries. The least it should have is 8 per cent, or, in specific figures, one-fourth of one cent per pound. The sugar refining industry of this country, no matter of what form its organization, is entitled to adequate protection if any industry is. There are at least 100,000 people dependent upon it. What it pays, or has paid, to its stockholders in the past represents nothing more than a fair return on the capital invested, considering the extent of the business. We don't lay much stress on benefit to the consumer. We are in this for business. We try to keep the price down to keep out competition. We are in competition now, though, up to our throats.

A CHAPTER OF POSSIBLE HISTORY.

A Backward Glance—Rise and Decline of the Trust System—Vision of an Optimistic Pessimist—Alleged Glimpse Beneath the Lid of Pandora's Box—A Taste of Socialism—An Untimely Interruption—All's Well That Ends Well.

WASHINGTON, D. C., UNIVERSITY OF UNIVERSITIES, March —, 1925
CLASS-ROOM OF ECONOMIC HISTORY.

Professor.—"Gentlemen, I promised you that I would devote part of the class hour to-day to a rapid review of the rise and decline of the monopoly-trust system which fastened itself upon the industries of this country about the close of the last century, and of the successive steps by which the nation freed itself from that economic incubus.

"First, then, bear in mind that the suddenness and magnitude of the attempted revolution at first bewildered many. But from the moment that the real nature of the movement became known, the mass of the people, who were not in the trusts and who had some stake in the permanence of the social order, with that instinctive common sense which leads them aright in most emergencies, realized that they were face to face with a great peril. As to the extent of that peril and the course to be pursued in view of it, the widest diversity of view prevailed.

"Then followed what has come to be known as the Great Debate, in which all classes and both sexes, from ocean to ocean, joined with the keenest interest but with singular freedom from acrimony considering the strenuous nature of the controversy. For a time not a few so-called leaders of opinion, both in and out of Congress and State Legislatures, were quite at a loss what to do or say, and so they maintained an evasive silence or alternately blew hot and cold, now denouncing the trusts and now with equal energy denouncing any proposed remedy against them, while waiting to see which way the economic and the political cat would respectively jump. These gentlemen concurred in deprecating certain possible abuses of the power admitted to be possessed by the new monopolies, and they agreed in calling loudly for "regulation" by law, but they were equally and curiously sterile in definite suggestions which had in them aught of practical sense or value. Naturally all this was quite satisfactory to the trusts, which coolly ignored what their champions called the 'public clatter,' and quietly went on consolidating their power and fortifying their position.

"As the wide debate progressed public opinion became aligned somewhat in this manner: Nearly all who were pecuniarily interested directly or indirectly in any of the trusts, and they formed an important section of the population, together with a considerable body of intelligent and high-minded citizens whose views were wholly impartial, including some students of political science, held that the monopoly-trust was a natural result of economic evolution, the inevitable culmination of progressive enlargement of plants and capitals, in the interest of greater efficiency and economy in production, that its abolition was impossible even if desirable, and undesirable even if possible; that, like any other great business movement, this undoubtedly required reasonable regulation and control for the protection of the people against any serious misuse of advantage. On the other side it was stoutly insisted that the trust system was artificial, unscientific, and, worst of all, an insolent invasion of popular rights; that instead of requiring regulation or palliation it called for extirpation through a prompt

return to reasonable competitive methods. Of adequate ways and means of relief, however, none were in sight.

"Meanwhile, with conviction confirmed on the part of the trusts that their position was legally and economically impregnable, results ensued which had been predicted as early as 1899. As the managers of trusts became more sure of their ground and less sensitive to public criticism, and as all talk of serious competition died away, trust prices for manufactured goods were progressively placed and held sharply above the level at which competition would have fixed them, and prices paid by the trusts for raw materials were held correspondingly low, competition from foreign buyers in some lines being the only downward limit. Thus monopoly profits were made both coming and going, while farmers and other producers of raw materials were mulcted both on prices of their sales and of their purchases. The gradual concentration of trust industrial plants at the East and in the environs of great cities in the Central states went noiselessly forward. No new factories, no enlargements of existing ones and no rebuilding of destroyed ones were observed in the towns and minor cities of the Central, Western and Southern states. Closed and dismantled factories throughout these sections were popularly known as trust monuments.

"The scores of thousands of bright young men annually turned out from American universities, colleges, academies and technical schools, found their opportunities in life reduced by one-half, thus introducing the element of a peculiar pathos into a situation already sufficiently strained. For, not only were most of the avenues to an honorable industrial career closed by the great change but the new method to an almost equal extent diminished opportunities in all professions which in any way depended for prosperity on a prosperous middle class in the community. Of course, this result was not intended by anyone but was the unavoidable result of an evil principle in action. Politics, municipal, state and national, became honeycombed with trust influence, and wherever it appeared it carried degradation and demoralization. The trust magnates, when corrupting voters and legislatures, insisted that they were simply acting in self-defense—'protecting the property interests of their shareholders against attacks of socialistic demagogues and their dupes.'

"All restraints and popular safeguards seeming to be removed, the contagion of monopoly spread throughout society even into fields where it could not possibly get a permanent foothold and where its grotesque presence would have seemed ludicrous but for its short-lived outrages upon the defenseless community. Sim-

ply as one of many examples of the widespread demoralization, in looking over newspaper files of that period, I notice that in 1899 in the second city of the country all the dealers in plumbers' material entered into a monopoly 'combine' with the organized plumbers for a purpose which you will understand when I state its method of operation: First, no citizen, not a plumber, was permitted to buy any article of plumbing material from any dealer. On attempting to do so the astonished citizen was referred to 'his plumber.' Thus, if a low-salaried suburban householder wished to economize by making for himself some trifling repair to his kitchen sink, costing for material perhaps fifty cents, he was compelled, through inability to procure a bit of lead pipe, to employ a plumber, possibly with a helper, to come from the city and do the job; thus practically using up a working day and involving an expense of five to ten times the necessary outlay. Second, if the owner of a building under construction happened to have and wished to utilize some second-hand piping which he had saved from the former structure, he was informed by the boss plumber that his men would not be allowed to put it in place. He must buy new pipe from the dealer.

"One event greatly disappointed the people and surprised many students of political economy: When some of the worst-managed and most absurdly overcapitalized trusts, after struggling to pay interest and dividends on their inflated valuations, began to show signs of distress and approaching dissolution there was a general hope and expectation that to a great extent a solution of the trust problem might be at hand—that as the trust system had been inaugurated in violation of sound economic laws, so now those laws were about to avenge themselves and apply their own remedy, as natural and economic laws have a habit of doing. But a curious phenomenon appeared. The same class of promoters and promoting bankers who were mainly responsible for the original trust system and who had gathered great fortunes from what came to be known as the 'Industry of Monopolizing Industries,' having unloaded their trust securities, now reappeared with unimpaired appetites and started what also came to be called on the street the 'Industry of Wrecking and Reorganizing Monopoly-Trusts.' Employing as before the keenest legal wits that money could secure, these gentlemen, knowing all the ins and outs, undertook the business of closing down, liquidating, reorganizing and recapitalizing on a reduced basis these collapsed concerns. Thus, instead of each failed trust breaking up into its original units, or even into independent groups, and reviving some measure of effective competition, the monopolistic feature was in every case strenu-

ously preserved, as the most valuable asset in the reorganized trust, and the monopoly system went forward with simply a change of capital and corporate name. This result might have been foreseen by those who recalled the fact that early in the new movement the so-called Cordage Trust was twice wrecked and reorganized but each time, in the language of the street, emerged a "water-tight and copper-fastened monopoly." A still more significant development was that scores of the weak and the mismanaged trusts were absorbed by the successful ones, the tendency thus being to merge all trusts into one, or, what was much the same, into a single close syndicate.

"For a considerable period many excellent and usually intelligent people were misled into a partial support, or at least a toleration, of the trusts by a group of skillful and plausible writers on political science, who could see no faults or dangers in the trusts, and whose style of argument was at least transparent. I have been greatly amused while perusing some of their sophistries in the light of subsequent experience. For example, two of their favorite and overworked syllogisms might be thus paraphrased: (1) In economics, whatever is is the result of evolution; whatever is the result of evolution is "here to stay;" therefore the new system of trust monopoly is permanent and unassailable. (2) All are free to compete. Where there is freedom to compete there can be no monopoly. There being no monopoly there is no case against the trust, and popular protest is the result of ignorance and hostility to all corporations and all capital.

"All these fallacies and sophisms were soon exposed, however, and the people came to see with clear vision the problem that confronted them. But the events which did more than all else to unite the people in unyielding opposition to the trust system were these:

"1. The various trusts, finding as usual that in union there is strength, formed a close Inter-Trust Alliance, or, as some called it, a 'Trust of Trusts,' under which, besides a covenant that one trust should not compete with another, their combined resources, espionage and political and financial influence were used to prevent or defeat adverse political action, or on occasion were all placed at the service of any one trust which was threatened either by attempted competition or a hostile decision of the courts. To these ends the alliance kept always on hand a gen erous 'fighting fund' and its mailed fist was often felt.

"2. The organization of the Inter-Trust Alliance was soon followed with that of an International Trust League, whereby all the trusts in the United States entered into alliance with all similar organizations in other countries—for meantime the Ameri-

can trust contagion had spread to Europe—the objects being substantially the same as those of the Inter-Trust League, only made operative on the stage of the world. It had the additional purpose of preventing the competition of foreign trusts from interfering with the monopoly enjoyed by the domestic trusts in each country.

"3. After these two measures had been perfected it transpired that the agents of the American Inter-Trust Alliance were busily at work endeavoring to unite all skilled workmen in trust employ in a movement adroitly named the Workmen's and Employers' Co-operative Guild. The plan involved an alliance between all workmen and their trust employers along these lines, reinforced by boards of arbitration and conciliation, etc.: Workmen should in any case receive a minimum living wage. Their wages should be increased a certain per cent. as often as price of product was advanced above the cost level, and reduced correspondingly when prices were reduced, but wages should never go below the agreed minimum. All the workmen were to be organized in unions; were to bind themselves not to work for any but a trust employer, and to use all 'legal' means to prevent other workmen from serving any employer who attempted to withdraw from or compete with a trust. On the other hand, by adroit manipulation of rules, the membership of the labor unions was to be practically and sharply limited and the employing trusts were to bind themselves never to employ non-union workmen.

"This attempt to bring about an offensive and defensive 'combine' between the allied monopoly-trust and organized labor, had the evident triple purpose of finally destroying even 'potential' competition against the trusts, securing to them the good-will and political backing of the labor vote, and permanently placing the general public at the absolute mercy of monopoly prices and methods. Some labor leaders and a large section of the workmen favored the project and pointed to the results in the so-called Smithsonian or Birmingham movement, which had nearly doubled workmen's wages in seven years. What would have been the outcome but for interrupting events, can only be conjectured.

"4. The next historic episode of the great debate was this: At first, through anonymous contributions to the newspapers, then by special pamphlets, and well-written magazine articles, and finally by public conventions, there sprang up a serious and able discussion of the proposition that the natural and practical, if not the only, escape from the tyranny of private monopoly as embodied in the trust system was through the gateway of state socialism. Most of these writers and speakers were pes-

simistic as to the possibility of any return to the competitive plan. Some believed such a return would be unwise, even if feasible. It was suggested that nearly all old-time arguments against state socialism had been swept away by the trust deluge; that instead of having to consult tens of thousands of small proprietors, it would only be necessary to deal with perhaps threescore trust magnates; that instead of state socialism destroying the great middle class of independent manufacturers and dealers, the private monopoly system was already rapidly eliminating that class; that the same trained talent which was then efficiently managing the trust industries would willingly accept the nation as their employer instead of the trust, on conditions easily arranged. The United States postal service, the largest and best-managed business establishment in the world, was the standing and star argument of the state socialists, the object lesson which was held to prove that, with a properly organized civil service, the nation could carry on with economy, efficiency and success any business, whatever its complexity or magnitude.

"The veteran socialists of all schools and all shades of opinion in Europe and America were delighted with the outlook, and actually spoke of the United States as the soon-to-be Socialist Republic—the Paradise of the Experimenters, the Canaan of the Disinherited. The disciples of Bellamy proved to be far more numerous than had been suspected and they did not fail to make themselves heard. In several leading cities elections were carried by a fusion of socialists, unemployed workingmen and the general army of the discontented. Then followed bedlam in municipal affairs, prostration of public credit, demoralization and incredible corruption everywhere, crude and ruinous ventures in municipal management of "public utilities," and a reign of that peculiar tyranny and intolerable insolence which always mark the promotion of the self-appointed leaders of a certain class to sudden and unaccustomed place and power.

"The one argument which had weight with the mass of the people was this: 'If we are bound to live under a system of monopoly, let that monopoly be public and not private, responsible and not irresponsible, our own and not the perquisite of a privileged class; let its profits or benefits accrue to the people and not to the plutocrats, to the many and not to the few.' Almost these exact words formed part of the platform adopted in 1904 at the national convention of a numerous political party newly organized on this issue. The largest workingmen's organization in the world, the American Federation of Labor, at its convention in December, 1899, resolved that the trust movement was irresistible, that it would advance until practically

all industries were controlled by one organization, and then the people would step in and assume possession and ownership.

"Meantime the exponents of the best citizenship indignantly pointed to this socialist tendency as the natural outworking of the monopoly-trust invasion. They charged that the trust was driving the people to socialism by the short cut. They shuddered at the thought of such an alternative, but warned the leaders of all parties that if the people were finally forced to choose between the known evils of industrial monopoly in private hands and the unknown evils and benefits of a government monopoly, they would surely prefer the latter. And so, while remedies were delayed, the foundations of the social order were under discussion and the Great Republic stood face to face with a Great Temptation. During the period of which I speak occurred one incident which will interest you, for the double reason that it has some local color and also serves to illustrate the state of public feeling at the time. This university was then organizing and the trustees received an offer from a group of three monopoly magnates to furnish the entire desired endowment of fifty million dollars. By a unanimous vote the offer was courteously declined.

"We now come to the final and pleasanter aspect of this singularly interesting epoch—to the record of those orderly events which happily resulted in solving the great problem, in abolishing the monopoly-trusts, in doing away with industrial bondage, and in substituting a system of effective but self-regulating competition, which, as you see around you, preserves the right of such honest capitalization and such centralization of production as enable manufacturers to reach the maximum of economic efficiency, and thus to compete in the world's markets, but prevents every element of monopoly. All this was done without a resort to violence, socialism, or confiscation. You will be struck, I think, with the leading and most patriotic role played in this beneficial restoration by that splendid body of jurists who occupied the bench at the opening of the present century, both in state and nation. The clearness of vision and the patriotic courage with which they stripped from the trust all its disguises and brushed aside the cobwebs of legal sophistry behind which the managers and attorneys of the trusts believed themselves permanently secured, were invaluable to the people and simply changed the current of history. To them more than to all others combined is due the credit for the republic's Great Escape. The first real advance took the form of—

(*Here the university bell rang.*)

"—Gentlemen, to my surprise the hour is up. We will defer the final chapter in the history of the rise and decline of the monopoly-trust system to another day."

CHAPTER X.

ANTI-TRUST LEGISLATION.

Synopses of the Statutes Against Trusts and Monopolies Enacted by Congress, Twenty-nine State Legislatures and the Canadian Parliament—Various Definitions of a Trust—Penalties Prescribed.

[By "domestic corporation" is meant a corporation organized under the laws of the particular state whose statute is under consideration.

By "foreign corporation" is meant a corporation organized under the laws of some other state or country.

By "civil damage clause" is meant that the law in the synopsis of which this expression occurs contains a provision to the effect that any person or corporation injured by any of the acts prohibited in the law may recover damages in a civil suit against the offending party.].

THE FEDERAL ANTI-TRUST STATUTE.

Enacted by Congress and approved by President Harrison, July 2, 1890. Title.—"An Act to protect trade and commerce against unlawful restraints and monopolies." The question of its application to railroad combinations was argued before the United States Supreme Court in December, 1893, on appeal from the Circuit Court of Appeals for the Eighth Circuit, and in March, 1897, a comprehensive decision was rendered (Mr. Justice Peckham), fully sustaining its constitutionality. As the authority of the United States to legislate in matters of this nature is derived wholly from those clauses of the Constitution which give to the Federal Government exclusive power to regulate foreign and interstate commerce, and power to make laws governing the territories and the District of Columbia, the scope of this statute is necessarily limited accordingly. In the following summary all material parts of the law are given verbatim:

Provisions.—"Section 1. Every contract combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several states or with foreign nations is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one

year, or by both said punishments, in the decretion of the court. Sec. 2. Every person who shall monopolize or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of the trade or commerce among the several states or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court." Sec. 3 declares illegal every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any territory of the United States or the District of Columbia, or between any territory and another, or between any territory and any state or the District of Columbia, or with foreign nations, and declares guilty of a misdemeanor any person who shall enter into any such contract or combination; the penalty being a fine not exceeding $5,000, or imprisonment not exceeding one year, or both. Sec. 4 invests the Circuit Courts of the United States with jurisdiction to prevent and restrain violations of this act, and makes it the duty of United States District Attorneys, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations, by petition and injunction or otherwise. Sec. 5 authorizes the summoning of other parties, residing within or without the district where proceedings are brought. Sec. 6 provides that any property owned under any such illegal contract and being the subject thereof, and being in the course of transportation from one state to another or to a foreign country, shall be forfeited to the United States. Sec. 7 provides that any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden in this act may sue therefor in any Circuit Court of the United States without respect to amount in controversy, and shall recover threefold the damages sustained, cost of suit and reasonable attorney's fee. Sec. 8 defines "person" as herein used to include corporations and associations existing under or authorized by the laws of either of the United States, of any territory or of any foreign country.

Alabama.—This state has limited its anti-trust legislation to a law prohibiting combinations of insurance companies from fixing and maintaining rates, approved February 18, 1897. Title.—"An Act to more effectively protect the people against combinations, conspiracies and agreements between insurers, whereby rates of insurance are raised or fixed." Provisions.—The preamble reads: "Whereas existing laws have proved inadequate to protect the people against combinations, conspiracies and agreements between insurers, whereby rates of insurance are raised or fixed by such practices, therefore, in order to suppress such combinations, conspiracies and agreements to the end that competition in business shall alone make such rates." In event of loss or damage under any policy issued after the passage of this Act the insured or assigns shall recover 25 per cent, over and above actual loss or damage, if at date of issuing the policy or thereafter, but before time of trial of case, the insurer was in any way connected with any "tariff association or such like thing by whatever name called," or had any understanding with any other person, corporation or association within or without this

state respecting rates; and no stipulation in such policy or contract to arbitrate loss or damage or as to notice or proof of loss shall be binding on the insured. This statute shall be liberally construed to accomplish its object.

Arkansas.—Approved March 16, 1897. Title.—"An Act to prevent combinations of trusts and corporations in the State of Arkansas." Provisions.—"Section 1. That from and after the passage of this Act all arrangements, contracts, agreements, trusts or combinations between persons or corporations, made with view to lessen, or which tend to lessen, full and free competition in the importation or sale of articles of domestic growth or of domestic raw material, and all arrangements, contracts, agreements, trusts or combinations between persons or corporations designed or which tend to advance, reduce or control the price, or the cost to the producer or to the consumer of any such article or product, are hereby declared to be against public policy, unlawful and void." Every domestic corporation which violates this act forfeits its charter, franchises and corporate existence. Every offending foreign corporation is prohibited doing business in the state. Violation of the Act is declared "destructive of full and free competition, and a conspiracy against trade," and persons who as principals, managers, directors or agents, or in any other capacity, knowingly carry out any unlawful provisions of any such conspiracy shall be punished by fine from $500 to $2,000, or by penitentiary imprisonment from one to ten years. The Act does not apply to agricultural products nor live stock while in possession of the producer. Any person injured or damaged by any such trust or combination may sue for and recover amount paid for any goods purchased therefrom.

California.—Anti-trust legislation here is limited to "An Act to prevent combinations to obstruct the sale of live stock in the state of California," approved February 27, 1893. The law is of strictly local bearing and of little consequence.

Georgia.—Act approved December 23, 1896. Title.—"An Act to declare unlawful and void all arrangements, contracts, agreements, trusts or combinations made with a view to lessen, or which tend to lessen, free competition in the importation or sale of articles imported into this state, or in the manufacture or sale of articles of domestic growth, or of domestic raw material; to declare unlawful and void all arrangements, contracts, agreements, trusts or combinations between persons or corporations designed, or which tend to advance, reduce or control the price of such product or article to producer or consumer of any product or article; to provide for forfeiture of the charter and franchise of any corporation organized under the laws of this state violating any of the provisions of this Act; to prohibit every foreign corporation violating any of the provisions of this Act from doing business in this state; to require the Attorney-General of this state to institute legal proceedings against any such corporation violating any of the provisions of this Act, and to enforce the penalties prescribed; to prescribe penalties for any violation of this Act; to authorize any person or corporation damaged by any such trust, agreement or combination to sue for the recovery of such damage, and for other purposes."

Provisions.—Section 1 repeats almost verbatim the language of the foregoing title and declares all acts of the nature therein described to be "against public policy, unlawful and void." Sec. 2 forfeits the charter, franchises and corporate existence of any domestic corporation, and excludes from doing business in the state any foreign corporation violating the provisions of the act; the Attorney-General being required to enforce these penalties. Violation of the Act is further declared to be "destructive of full and free competition, and a conspiracy against trade, and persons who engage in any such conspiracy, or who shall in any capacity whatever knowingly carry out any of the purposes herein prohibited, shall on conviction be fined from $100 to $5,000, and imprisoned in the penitentiary from one to ten years. The Act does not apply to agricultural products or live stock while in the possession of the producer or raiser. Any person or corporation injured by any of the prohibited acts may sue and recover the full consideration paid for any articles controlled by any such trust. Judges of the Superior Court of the state are required to specially instruct grand jurors as to the provisions of this Act.

Illinois.—Original statute approved June 11, 1891; in amended form approved June 10, 1897. Title—"An Act to provide for the punishment of persons, copartnerships or corporations forming pools, trusts and combines, and mode of procedure and rules of evidence in such cases." Provisions.—Section 1 reads: "If any corporation organized under the laws of this or any other state or country for transacting or conducting any kind of business in this state, or any partnership or individual or other association of persons whosoever shall create, enter into, become a member of, or a party to, any pool, trust, agreement, combination, confederation or understanding with any other corporations, partnership, individual or any other person or association of persons, to regulate or fix the price of any article of merchandise or commodity, or shall enter into, become a member of, or party to, any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any such article, commodity or merchandise to be manufactured, mined, produced or sold in this state, such corporation, partnership or individual or other association of persons shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to indictment and punishment as provided in this act: Provided, however, that in the mining, manufacture or production of articles of merchandise, the cost of which is mainly made up of wages, it shall not be unlawful for persons, firms or corporations doing business in this state to enter into a joint arrangement of any sort, the principal object or effect of which is to maintain or increase wages." Sec. 2 prohibits domestic corporations from issuing or owning trust certificates and prohibits corporations, their agents, officers and employes, directors and stockholders, from entering into any combination or agreement with persons or corporations, or director, or stockholder of the latter, to place the management or control of such combination or its manufactured products in the hands of any trustee with the intent to limit or fix the price or lessen the price or sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the

manufacture or output of any such article. Sec. 3 prescribes the penalties for violation of the Act: Either party may demand a trial by jury, and an offending corporation, company, firm or association shall, on conviction, be fined from $500 to $2,000 for the first offense; from $2,000 to $5,000 for the second; from $5,000 to $10,000 for the third offense, and $15,000 for each subsequent offense. Any officer, receiver or other representative of any corporation, company, firm or association, or any individual found guilty of violating the first section of this Act is punishable by a fine of $200 to $1,000, or by jail imprisonment not exceeding one year, or both. All contracts made in violation of the Act are declared void. Any purchaser of any commodity from any individual or corporation doing business contrary to any preceding provision of this Act shall not be liable for payment therefor. The fines herein prescribed are recoverable in an action for debt in the name of the people of Illinois. In all cases a preponderance of evidence in favor of the people shall be sufficient to authorize a verdict and judgment for the people. Prosecuting attorneys in their respective jurisdictions and the Attorney-General are required to enforce this act. In case of conviction, the informer is entitled to one-fifth of the fine recovered and collected. All fines are required to be paid into the treasuries of the respective counties where the suits are brought, to be used for county purposes.

Indiana.—Approved March 5, 1897, and almost a verbatim copy of the Georgia anti-trust statute. Title.—"An Act to declare unlawful and void all arrangements, contracts, agreements, trusts or combinations made with a view to lessen, or which tend to lessen, free competition in the importation or sale of articles imported into this state, or in the manufacture or sale of articles of domestic growth or of domestic raw material; to declare unlawful and void all arrangements, contracts, agreements, trusts or combinations between persons or corporations designed, or which tend to advance, reduce or control the price of such product or article to producer or consumer of any product or article; to provide for forfeiture of the charter and franchise of any corporation organized under the laws of this state violating any of the provisions of this Act; to prohibit every foreign corporation violating any of the provisions of this Act from doing business in this state; to require the Attorney-General of this state to institute legal proceedings against any such corporation violating any of the provisions of this Act, and to enforce the penalties prescribed; to prescribe penalties for any violation of this Act; to authorize any person or corporation damaged by any such trust, agreement or combination to sue for the recovery of such damage, and for other purposes."

Provisions.—Section 1 reads as follows: "Be it enacted by the General Assembly, etc., that from and after the passage of this act all arrangements, contracts, agreements, trusts or combinations between persons or corporations, who control the output of any article of merchandise, made with a view to lessen, or which tend to lessen, full and free competition in the importation or sale of articles imported into this state, and all arrangements, contracts, agreements, trusts or combinations, between persons or corporations, who control the output of any article of merchandise designed, or which tend to advance,

reduce or control the price or the cost to the producer or to the consumer of any such product or article, are hereby declared to be against public policy, unlawful and void." Sec. 2 forfeits the charter, franchises and corporate existence of any domestic corporation, and excludes from doing business in the state any foreign corporation violating the provisions of the act; the Attorney-General being required to enforce these penalties. Violation of the Act is further declared to be "destructive of full and free competition and a conspiracy against trade, and persons who engage in any such conspiracy, or who shall in any capacity whatever knowingly carry out any of the purposes herein prohibited, shall on conviction be fined from $100 to $5,000, and imprisoned in the penitentiary from one to ten years. The Act does not apply to agricultural products or live stock while in the possession of the producer or raiser. Civil damage clause.

Iowa.—Approved May 6, 1890. Title.—"An Act for the punishment of pools, trusts, combinations and conspiracies and as to evidence in such cases." Provisions.—Section 1 reads: "If any corporation organized under the laws of this or any other state or country, for transacting any kind of business in this state, or any partnership or individual or other association of persons whosoever, shall create, enter into or become a member of, or a party to, any trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any person or association of persons, to regulate or fix the price of any article of merchandise or commodity, or shall enter into, become a member of, or party to, any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article, commodity or merchandise to be manufactured, raised, produced or sold in this state, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to indictment as provided in this act." Sec. 2 prohibits corporations from issuing or owning trust certificates, and makes it unlawful for any corporation or representative or stockholder thereof to combine or agree with any person or corporation to enter into a combination or agreement with any other party with the purpose or effect of placing management or control of such combination or its manufactured product in the hands of trustees, with intent to limit or fix the price or lessen the production of any article or to prevent or restrict the output of any such article. Any corporation, company, firm or association violating this act is punishable by a fine of from one per cent to twenty per cent of the capital stock thereof or amount invested in such company, firm or association; officers, receivers or other authorized representatives thereof who violate the first section of this Act are punishable by a fine from $500 to $5,000, and in addition may be punished by jail imprisonment not exceeding one year.

Kansas.—Approved March 8, 1897. Title.—"An Act defining and prohibiting trusts, providing procedure to enforce the provision of this Act, and providing penalties for violations of the provisions of this Act." Provisions.—"Section 1. A trust is a combination of capital, skill or acts, by two or more persons, firms, corporations or associations of persons, or either two of them, for either, any or all of the following purposes: First.—To create or carry out restrictions in the

full and free pursuit of any business authorized or permitted by the laws of this state. Second.—To increase or reduce the price of merchandise, produce or commodities, or to control the cost or rate of insurance. Third.—To prevent competition in the manufacture, making, transportation, sale or purchase of merchandise, produce or commodities, or to prevent competition in aids to commerce. Fourth.—To fix any standard or figure, whereby its price to the public shall be in any manner controlled or established (for) any article or commodity of merchandise, produce or commerce intended for sale, use or consumption in this state. Fifth.—To make or enter into, or execute or carry out, any contract, obligation or agreement of any kind or description by which they shall bind, or have to bind, themselves not to sell, manufacture, dispose of or transport any article or commodity, or article of trade, use, merchandise, commerce or consumption below a common standard figure, or by which they shall agree, in any manner, to keep the price of such article, commodity or transportation at a fixed or graded figure, or by which they shall, in any manner, establish or settle the price of any article or commodity, or transportation, between them or themselves and others, to preclude a free and unrestricted competition among themselves or others in transportation, sale or manufacture of any such article or commodity, or by which they shall agree to pool, combine or unite any interest they may have in connection with the manufacture, sale or transportation of any such article or commodity that its price may in any manner be affected. And any such combinations are hereby declared to be against public policy, unlawful and void.

Kentucky.—Approved May 20, 1890. Title.—"An Act to prevent the establishment of pools, trusts and conspiracies, and to provide punishments therefor." Provisions.—Section 1 reads: "That if any corporation under the laws of Kentucky, or under the laws of any other state or county (country), for transacting or conducting any kind of business in this state, or any partnership, company, firm or individual, or other association of persons, shall create, establish, organize or enter into or become a member of or a party to, or in any way interested in, any pool, trust, combine, agreement, confederation or understanding with any other corporation, partnership, individual or persons or association of persons, for the purpose of regulating or controlling or fixing the price of any merchandise, manufacture, articles of property of any kind, or shall enter into, become a member of, or party to, or in any way interested in any pool, agreement, contract, understanding, combination or confederation having for its object the fixing or in any way limiting the amount or quantity of any article of property, commodity or merchandise to be produced or manufactured, mined, bought or sold, shall be deemed guilty of the crime of conspiracy and punished therefor as provided in the subsequent sections of this act." Sec. 2 prohibits any corporation from issuing or owning, having or selling, trust certificates or stocks, and prohibits any representative of any corporation from entering into any agreement or understanding, verbally or in writing, the purpose or effect of which would be to place the control of any part of the business of such concern or its product in the control of any trustee or trustees, with the intent to limit, fix, establish or change the price of such

product. Any offending corporation is subject to a fine of from $500 to $5,000, and any officer or representative of any such offending corporation or combination found guilty of any violation of this act is subject to a fine of $500 to $5,000, or jail imprisonment from six to twelve months, or both of these penalties. All contracts in contravention of this act are void and not enforcible at law. Purchasers of property or articles from any person, firm, company or corporation transacting business contrary to the provisions of this act shall not be liable for the payment of the price for the same. Offending corporations forfeit their charter, franchise and corporate existence.

Louisiana.—Approved July 7, 1892. Title.—"An Act to prevent trusts or combinations intended to restrain trade or to control the market value of merchandise, produce or commodities, and to provide penalties and punishment of persons, corporations, firms and associations of persons connected with them, and to promote free competition in the state of Louisiana." Section 1 reads: "That after the passage of this act it shall be unlawful for any individual, firm, company, corporation or association to enter into, continue or maintain any combination, agreement or arrangement of any kind, expressed or implied, with any other individual, firm, company, association or corporation for any of the following purposes: First.—To create or carry out restrictions in trade. Second.—To limit or reduce the production or increase, or reduce the price of, merchandise, produce or commodities. Third.—To prevent competition in the manufacture, making, transportation, sale or purchase of merchandise, produce or commodities. Fourth.—To fix any standard or figure whereby its price shall be in any manner controlled or established of any article of merchandise, produce, commodity or commerce intended for commerce in this state. Fifth.—To make or enter into or execute or carry out any contract, obligation or agreement of any kind or description by which they shall bind, or have bound themselves, not to sell, dispose of or transport any article or commodity or article of trade, use, merchandise, commerce or consumption, below a common standard, figure or by which they shall agree in any manner to keep the price of such article at that fixed or graduated figure, or by which they shall agree in any manner to keep the price of such article at that fixed or graduated figure, or by which they shall in any manner, establish or settle the price of any article or commodity or transportation between them or themselves and others, to preclude a free and unrestricted competition among themselves or others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine, or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its price might in any manner be affected." Any violation of any of the provisions of this act is declared to be a conspiracy against trade, and the penalties usually provided in anti-trust statutes against offending corporations, combinations, associations and individuals are embodied in the subsequent sections of the statute.

Maine.—Approved March 7, 1889. Title.—"An Act to prevent such formation of trusts, combination of business firms, incorporated

or unincorporated companies or associations of persons or stockholders as may be contrary to public policy." Section 1 of the act reads: "It shall be unlawful for any firm or incorporated company, or any number of firms or incorporated companies, or any unincorporated company, or association of persons or stockholders organized for the purpose of manufacturing, producing, refining or mining any article or product which enters into general use and consumption by the people, to form or organize any trust, or to enter into any combination of firms, incorporated or unincorporated companies or association of stockholders, or to relegate to any one or more board of boards of trustees or directors the power to conduct and direct the business of the whole number of firms, corporations, companies or associations which may have, or which may propose to form, a trust, combination or association inconsistent with the provisions of this section, contrary to public policy."

Subsequent sections prohibit and invalidate all certificates of stock or other evidence of interest under any trust, combination or association described in Section 1, and all deeds to real estate or mortgage thereon given by any person, firm or corporation for the purpose of becoming interested in such trust, combination or association; all offending corporations, combinations and associations are deemed guilty of a misdemeanor, and subject to a fine of $5 to $10,000, provided that every corporation or association interested in any trust at the date of enacting the statute shall have ninety days within which to withdraw from the same.

Michigan.—Approved July 1, 1889. Title.—"An Act declaring certain contracts, agreements, understandings and combinations unlawful, and to provide punishments for those who shall enter into the same, or do any act in performance thereof." Section 1 reads: "That all contracts, agreements, understandings and combinations may be entered into or knowingly assented to by and between any parties capable of making a contract or agreement which would be valid at law or in equity, the purpose or object or intent of which shall be to limit, control or in any manner to restrict or regulate the amount of production or the quantity of any article or commodity to be raised or produced by mining, manufacture, agriculture or any other branch of business or labor, or to increase, control or regulate the market price thereof, or in any manner to prevent or restrict free competition in the production or sale of any article or commodity, shall be utterly illegal and void, and every such contract, agreement, understanding and combination shall constitute a criminal conspiracy, and every person who for himself personally, or as a member or under the name of a partnership, or as a member, agent or officer of a corporation, or of any association for business purposes of any kind, who shall enter into or knowingly consent to any such void and illegal contract, agreement, understanding or combination, shall be deemed a party to such conspiracy. And all parties so offending shall, on conviction thereof, be punished by a fine of not less than $50, nor more than $300, or by imprisonment in the county jail not more than six months, or by both such fine and imprisonment, at the discretion of the court, and the prosecution for offense under this section may be instituted and the trial had in any county where any

of the conspirators became parties to such conspiracy, or in which any one of the conspirators shall reside; provided, however, that this section shall in no manner invalidate or affect contracts for what is known and recognized at common law and in equity as contracts for the 'good will of a trade or business,' but all such contracts shall be left to stand upon the same terms and within the same limitations recognized at common law and in equity." Subsequent sections provide that: "Every contract, understanding or combination declared void and illegal by Section 1, is made equally void and illegal within this state, whether made and entered into within or without this state. The carrying into effect in whole or in part of any such illegal contract or understanding, and every act done for that purpose by any of the parties or through their agents, constitutes a misdemeanor, punishable with fine and imprisonment. Offending domestic corporations forfeit their charter and all rights thereunder. The provisions of the act do not apply to agricultural products or live stock while in the hands of the producer or raiser, nor to the services of laborers or artisans who are formed into societies or organizations for the benefit and protection of their members.

Minnesota.—Approved April 20, 1891. Title.—"An Act to prohibit pools and trusts in the state of Minnesota." Provisions.—Section 1 of the act reads: "If any corporation organized under the laws of this state, or any other state or country, for transacting or conducting any kind of business in this state, or any partnership or individual shall create, enter into, become a member of or a party to any pool, trust, agreement, combination or confederation with any other corporation, partnership or individual, to regulate or fix the price of oil, lumber, coal, grain, flour, provisions, or any other commodity or article whatever, or shall create, enter into, become a member of or a party to any pool, agreement, combination or confederation to fix or limit the amount or quantity of any commodity or article to be manufactured, mined, produced or sold in this state, shall be deemed guilty of a conspiracy to defraud, and be subject to indictment." Any offending person or corporation is, on conviction, subject to a fine of $100 to $5,000. Upon the trial of an indictment against a corporation or copartnership for a violation of Section 1 of this act, all officers and agents thereof shall be competent witnesses against the defendent, and may be compelled to testify and produce all books and papers in their control pertinent to the issue.

Mississippi.—The original act forms part of the "Enacted Code of the General Statute Laws of the State of Mississippi." This code was adopted in 1892, and was amended March 11, 1896 The sections of the legislation referring to trusts are the sections in the code. Section 4437 reads: "A trust and combine is a combination, contract, understanding or agreement, expressed or implied, between two or more persons, corporations or firms or associations of persons, or between one or more of either with one or more of the others: (a) In restraint of trade; (b) To limit, increase or reduce the price of a commodity; (c) To limit, increase or reduce the production or output of a commodity; (d) Intended to hinder competition in the production, importation, manufacture, transportation, sale or purchase of

a commodity; (e) To increase or forestall a commodity; (f) To issue, own or hold the certificates of stock of any trust or combine; (g) To place the control to any extent of business, or of the products or earnings thereof, in the power of trustees by whatever name called; (h) By which any other organization than themselves, their proper officers, agents and employees shall or will have the power to conduct or control the management of business; (i) To unite to pool interests in the importation, manufacture, production, transportation or price of a commodity, and is now inimical to the public welfare, unlawful and a criminal conspiracy. But this shall not apply to the associations of those engaged in husbandry in their dealings with commodities in the hands of the producer, nor to the societies of artisans or employees or laborers formed for the benefit and protection of their members." Subsequent sections provide: That every contract to enter into or pursue any trust and combine, or any contract with any member of a trust or combine, is void and non-enforcible. Every offending domestic corporation forfeits its charter and franchises, and every offending foreign corporation forfeits its right to do business in the state. Persons damaged by any such combination may sue and recover. Any combination to prevent free competition and bidding for the performance of any public work is made a misdemeanor punishable by fine.

Missouri.—The original anti-trust legislation of Missouri was embodied in Chapter 128, Revised Statutes 1889. This was repealed by statute approved April 2, 1891; to give wider scope, the Act of 1891 was amended April 11, 1895, and again March 24, 1897. Title, "An Act providing for the punishment of pools, trusts and conspiracies to control prices, and as to evidence and prosecution in such cases." Provisions.—"Section 1. Any corporation organized under the laws of this or any other state or country, for transacting or conducting any kind of business in this state, or which does transact or conduct any kind of business in this state, or any partnership or individual, or other association of persons whatsoever, who shall create, enter into, become a member of, or a party to, any pools, trusts, agreement, combination, confederation or understanding with any other corporation, partnerships, individual or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, or to maintain said price when so regulated or fixed, or shall enter into, become a member of or a party to any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to penalties as provided in this Act."

The provisions affecting insurance companies do not apply to insurance in cities of more than 100,000 population, but insurance

companies or boards of fire underwriters, which directly or indirectly in such cities, agree or attempt to agree, directly or indirectly to fix or regulate premiums for insuring property located outside such cities shall be deemed to have forfeited their right to do business in the state, and to be liable to all other penalties of this Act. Sec. 1a declares to be "against public policy, unlawful and void," any arrangement, contract, agreement or combination which tends to lessen full and free competition in any lawful business within the state, or which provides that any person or corporation shall deal in any particular article to the exclusion of other and competing articles. Entering into such arrangement is an act of conspiracy to defraud, and punishable. Sec. 2 prohibits the issuing or owning of "trust certificates," and the placing in the hands of trustees the control of any corporation or combination or the manufactured products thereof, with the intent to limit or fix the price or lessen the production and sale of any article. Sec. 3 provides a penalty of a fine of $5 to $100 for each day of violation of this Act. Sec. 4 declares void any contract or agreement made in violation of this Act. Sec. 3 declares that any purchaser of any article from any individual or corporation doing business in violation of this Act shall not be liable for the price thereof, and may plead this Act as defense to any suit therefor. Sec. 6 provides that any domestic corporation guilty of violating this Act shall forfeit its corporate rights and franchises, and any foreign corporation so offending shall thereby forfeit its privilege to do any business in this state. The illegal act of the agent of a corporation shall be prima facie the act of the corporation. Sec. 6a provides that whenever the rights of a domestic or foreign corporation shall have been thus forfeited, it shall be a felony for any person, association of persons or corporation to deal in, sell or offer for sale in this state any article made wholly or in part thereby, or by the successor or assigns thereof. Penalty: Penitentiary imprisonment not exceeding three years, or jail imprisonment not exceeding one year, or fine of $100 to $1,000, or both fine and imprisonment. Sec. 7 makes it the duty of the Secretary of State to inquire yearly of every domestic and foreign corporation doing business in the state whether all or any part of its business is "with any trust, combination or association of persons or stockholders," as named in the preceding provisions of this act, and to require an answer under oath under penalty of forfeiture of all corporate rights as in Sec. 6 preceding. Sec. 8. Whenever it is proven that any domestic corporation has entered into any trust, etc., in violation of this Act, it shall be required to make the affidavit provided for in Sec. 7, and in default thereof the Secretary of State shall proceed forthwith to forfeit its corporate rights. Sections 9, 10, 11 and 12 fix the duties and compensation of state and county officials in enforcement of this Act (circuit and prosecuting attorneys receiving one-fourth of penalties collected), and repeal Chapter 128, Revised Statutes 1889, entitled "Pools and Trusts."

[Note.—Under this amended statute a leading test case was decided by the State Supreme Court in June, 1899 (State of Missouri vs. Firemen's Fund et al.) The law was declared constitutional and seventy-two foreign fire insurance companies were convicted of combining and conspiring to fix and maintain uniform premium rates.

All were forbidden to do further business in the State. This sentence of expulsion was subsequently changed to a fine of $1,000 each, which the companies paid, and they then continued in business in Missouri on condition of obeying the statute as thus construed.]

During the session of 1899 the Legislature of Missouri passed five additional Acts against trusts and trade combinations. The first, approved April 18, 1899, makes verbal changes in the Act of 1897. The second, approved May 10, 1899, is entitled, "An Act to prevent and restrain the continuance and operation of trusts and monopolies, and to provide procedure therefor." This is mainly devoted to improving the procedure under former statutes. It also specifically prohibits all combinations or agreements, the intent or effect of which is to control or limit trade or competition by refusing to sell to or buy from any other persons or concerns, because the latter are not members of any trust, association or combination, and prohibits all boycotting and threatening of persons for buying from or selling to concerns not members of such combines. The third, approved May 4, 1899, provides drastic methods for securing testimony from officers and employes of trusts. The fourth supplements the third along the same line. The fifth, approved May 23, 1899, fixes the status of foreign corporations wishing to do business in Missouri.

Montana.—The anti-trust and anti-monopoly legislation of Montana is contained in the Enacted Code of 1895. Section 321 reads: "Every person, corporation, stock company or association of persons in this state who, directly or indirectly, combine to form what is known as a trust, or make any contract with any person or persons, corporations or stock companies, foreign or domestic, through their stockholders, directors, officers or in any manner whatever for the purpose of fixing the price or regulate the production of any article of commerce or of the products of the soil for commerce by the people, or to create or carry out any restriction in trade to limit the production, or increase or reduce the price of merchandise or commodities, or to prevent competition in merchandise or commodities or to fix a standard or figure whereby the price of any article of merchandise, commerce or produce intended for sale, use or consumption will be in any way controlled, or to create a monopoly in the manufacture, sale, transportation of any such article, or to enter into an obligation by which they shall bind others or themselves not to manufacture, sell or transport any such article below a common standard or figure, or by which they agree to keep such article for transportation at a fixed or graduated figure, or by which they settle the price of such article so as to preclude unrestricted competition, is punishable by confinement in the state prison not exceeding five years, or by fine not exceeding $10,000, or both. Every corporation violating the provision of this section forfeits to the state all its property and franchises, and in case of a foreign corporation, it is prohibited from carrying on business in the state." Section 325 provides that this legislation shall not apply to any arrangement or combination between laborers made with the object of lessening the number of hours of labor, or increasing wages, nor to persons engaged in horticulture or agriculture with a view of increasing the price of their products.

Nebraska.—The Nebraska statute now in force repeals the previous law (Chapter XCIa, entitled "Trusts," of the Compiled Statutes of Nebraska for the year 1895) and was approved April 8, 1897. Title: "A bill or an Act to define trusts and conspiracies against trade and business, declaring the same unlawful and void, and providing means for the suppression of the same, and remedies for persons injured thereby, and to provide punishment for violations of this act, and to repeal," etc. Section 1 of the Act reads: "That a trust is a combination of capital, skill or goods by any person or persons to fix the price of any article or commodity of trade, use or merchandise with the intent to prevent others from conducting or carrying on the same business or selling or trafficing with the same article, use or merchandise, or a combination of capital, skill or goods by two or more persons, or by two or more of them for either, any or all of the following purposes: 1. To create or carry out restrictions in trade. 2. To limit or reduce the production or increase or reduce the price of merchandise or commodities. 3. To prevent competition in insurance, either life, fire, accident or of any other kind, or in the manufacture, making, constructing, transportation, sale or purchase of merchandise, produce or commodities. 4. To fix at any standard or figure whereby its price to the public shall be in any manner controlled; to establish upon any article of merchandise, produce or manufacture of any kind intended for sale, use or commerce in this state; to establish any pretended agency whereby the sale of any such article, commodity, merchandise or product shall be covered or concealed, or made to appear to be in the original vendor for the like purpose or purposes, and to enable the original vendor, purchaser or manufacturer to control the wholesale or retail price of any such article of merchandise, product or commodity after a trust as defined in Section 1 is a conspiracy against trade and the title to the same shall have passed from such vendor or manufacturer. 5. To make or enter into, carry on or carry out any contract, obligation or agreement of any kind or description by which they shall bind, or have heretofore bound, themselves not to sell, dispose of, traffic in or transport any article of merchandise, commodity or article of trade, product, use, merchandise, consumption or commerce below common standard figure, grade or list price, or by which they shall agree in any manner to keep the price of such article, product, commodity or transportation at a fixed or graduated figure, or price, or by which they shall in any manner establish or settle the price of any article of merchandise, commodity or of insurance, fire, life or accident, or transportation between them or between themselves and others, or with the intent to preclude, or the tendency of which is to prevent or preclude, a free and unrestricted competition among themselves or others, or the people generally, in the production, sale, traffic or transportation of any such article of merchandise, product or commodity, or conducting a like business, or by which they shall agree to pool, combine or unite any interest they may have in connection with the sale, production or transportation of any such article of merchandise, product or commodity, or the carrying of any such business that its price might in any manner be affected thereby." Subsequent sections provide:

That all acts creating, or attempting to create, directly or indirectly, a trust as defined in Section 1 is a conspiracy against trade and business and unlawful and the penalties usual in anti-trust statutes are provided; domestic corporations convicted of violation of the act forfeit their charter and franchises, and foreign corporations so offending forfeit their right to do business in the state. Prosecutions may be brought by any person in the name of the state against any person or persons violating any of the provisions of this Act.

New Mexico.—Approved February 4, 1891. Title: "An Act declaring certain trusts, pools and combinations illegal, and providing for the punishment thereof." Section 1 reads: "Every contract or combination between individuals, associations or corporations having for its object, or which shall operate to restrict trade or commerce, or control the quantity, price or exchange of any article of manufacture or product of the soil or mine, is hereby declared to be illegal. Every person, whether as individual or agent, or officer, or stockholder of any corporation or association, who shall make any such contract, or engage in any such combinations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $1,000 nor less than $100, and by imprisonment at hard labor not exceeding one year, or until such fine has been paid." Subsequent sections provide: That it shall be a misdemeanor to monopolize, or attempt or combine to monopolize, any part of the trade or commerce of this territory, the penalty being a fine or imprisonment or both. Contracts in contravention of this act are void, and purchasers of commodities from persons or concerns violating this act are not liable for the payment for the same.

New York.—Approved May 7, 1897. Title: "An Act to prevent monopolies in articles or commodities of common use and to prohibit restraints of trade and commerce, providing penalties for violations of the provisions of this act, and procedure to enable the Attorney-General to secure testimony in relation thereto." Section 1 reads: "Every contract, agreement, arrangement or combination whereby a monopoly in the manufacture, production or sale in this state of any article or commodity of common use is or may be created, established or maintained, or whereby competition in this state in the supply or price of any such article or commodity is or may be restrained or prevented, or whereby for the purpose of creating, establishing or maintaining a monopoly within this state of the manufacture, production or sale of any such article or commodity, the free pursuit in this state of any lawful business, trade or occupation is or may be restricted or prevented, is hereby declared to be against public policy, illegal and void." Section 2 reads: "Every person or corporation, or any officer or agent thereof, who shall make or attempt to make or enter into any such contract, agreement, arrangement or combination, or who within this state shall do any act pursuant thereto or in toward or for the consummation thereof, wherever the same may have been made, is guilty of a misdemeanor, and on conviction thereof shall, if a natural person, be punished by a fine not exceeding $5,000, or by imprisonment not longer than one year, or by both such fine and imprisonment, and for a corporation by a fine not exceeding $5,000." Subsequent sections of the Act are devoted mainly to procedure thereunder.

North Carolina.—Approved March 11, 1889. Title: "An Act to prohibit trusts in the state of North Carolina, and to provide for the punishment of persons connected with them." Section 1 reads: "That all combinations and trusts as defined by this act are unlawful, dangerous to the liberty of the people, and are hereby forbidden to be formed or carried on in this state." Section 2 reads: "That a trust is an arrangement, understanding or agreement, either private or public, entered into by two or more persons or corporations for the purpose of increasing or reducing the price of the shares of stock of any company or corporation, or of any class of products, materials or any manufactured articles beyond the price that would be fixed by the natural demand for or the supply of such shares, products, materials or manufactured articles, and any attempt to carry out such price shall be evidence that such an arrangement, understanding or agreement exists." Subsequent sections provide the usual penalties and relate to legal procedure in the act.

North Dakota.—Approved March 9, 1897. Title: "An Act to declare unlawful and void all arrangements, contracts, agreements, trusts or combinations made with a view to lessen, or which tend to lessen, free competition," etc. Section 1 reads: "That all arrangements, contracts, agreements, trusts or combinations between persons or corporations made with a view to lessen, or which tend to lessen, full and free competition in the importation or sale of articles imported into this state, or in the manufacture or sale of articles of domestic growth, or of domestic raw material, and all arrangements, contracts, agreements, trusts or combinations between persons or corporations designed, or which tend to advance rates, or control the price or the cost to the purchaser or to the consumer of any such product or articles, are hereby declared to be against public policy, unlawful and void." Subsequent sections provide: That domestic corporations violating this act shall forfeit their charters and franchises, and that foreign corporations so offending shall be prohibited from doing business within the state. Any violation of the act is declared to be "destructive of full and free competition and a conspiracy against trade," and the usual penalties are provided against individuals.

Ohio.—Approved April 19, 1898. Title: "An Act to define trusts and to provide for criminal penalties and civil damages and punishment of corporations, firms, persons or associations, or persons connected with them, and to promote free competition in commerce and all classes of business in the state." Section 1 reads: "That a trust is a combination of capital, skill or goods by one or more persons, firms, partnerships, corporations or associations of persons, or of any two or more of them, for either, any or all of the following purposes: 1. To create or carry out restrictions in trade or commerce. 8. To limit or reduce the production or increase, or reduce the rates or price of merchandise or any commodity. 3. To prevent competition in manufacture, making, transportation, sale or purchase of merchandise, produce or any commodity. 4. To fix at any standard of (or) figure whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of

merchandise, produce of commerce intended for sale, use or consumption in this state. 5. To make or enter into or execute or carry out any contracts, obligations or agreements of any kind or description, by which they shall bind or have bound themselves not to sell, dispose of or transport any article or any commodity of trade, use, merchandise, commerce or consumption below a common standard or figure or fixed value, or by which they shall agree in any manner to quote the price of such article, commodity or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article, commodity or transportation between them or themselves and others so as to, directly or indirectly, preclude a free and unrestricted competition among themselves or any purchasers or consumers in the sale or transportation of any such article or commodity, or by which they shall agree to pool or combine, or directly or indirectly unite any interests that they may have connected with the sale or transportation of any such article or commodity, that its price might in any manner be affected. Every such trust as is defined herein is declared to be unlawful, against public policy and void." Subsequent sections provide that domestic corporations offending against this act shall forfeit their charter rights and corporate existence, and foreign corporations so offending shall be prohibited from doing business within the state. Every violation of any of the provisions of the act is declared to be a conspiracy against trade, and any person convicted of such violation, either as principal, manager, director, agent, servant, employer or any other capacity, is punishable by a fine of $50 to $5,000, or imprisonment from six months to one year, or by both. Each day's violation of the act constitutes a separate offense. It is made unlawful to issue or to own trust certificates. Civil damage clause.

Oklahoma.—Approved December 25, 1890. Title: "An Act to prevent combinations in restraint of trade." Section 1 reads: "If any individual, firm, partnership or any association of persons whatsoever shall create, enter into, become a member of or a party to any pool, trust, agreement, combination or understanding, with any other individual, firm, partnership or association of persons whatsoever, to regulate or fix the price of, or prevent or restrict the competition in, the sale of provisions, food, fuel, lumber or other building materials, articles of merchandise or other commodity, they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $50 nor more than $500."

South Carolina.—Approved February 25, 1897. Title: "An Act to prohibit trusts and combinations, and to provide penalties." Section 1 reads: "That from and after the passage of this act all arrangements, contracts, agreements, trusts or combinations between two or more persons as individuals, firms or corporations made with a view to lessen, or which tend to lessen, full and free competition in the importation or sale of articles imported into this state, or in the manufacture or sale of articles of domestic growth, or of domestic raw material, and all arrangements, contracts, agreements, trusts or combinations between persons or corporations designed, or which tend to advance rates or control the price or the cost to the purchaser

or to the consumer of any such product or article, are hereby declared to be against public policy, unlawful and void." Subsequent sections provide the usual penalties against domestic and foreign corporations, and against individuals, and for civil damages in case of injury.

South Dakota.—Approved March 1, 1897. Title: "An Act to enforce Section 20 of Article 17 of the Constitution of the state of South Dakota." Section 1 reads: "That within the meaning of this Act, a trust or a monopoly is a combination of capital, skill or goods of two or more persons, firms, corporations or associations of persons: First: To create or carry out restrictions in trade. Second: To limit the production or to increase or reduce the price of commodities. Third: Of preventing competition in the manufacture, competition, sale or purchase of commodities. Fourth: To fix any standard or figure whereby the price to the public shall be in any manner established or controlled, provided that nothing in this act shall be construed so as to include labor organizations." Subsequent sections provide the usual penalties against domestic and foreign corporations, and against individuals who shall violate any provisions of the act.

Tennessee.—Original statute approved April 6, 1889. Title of amended act (March 30, 1891): "An Act to declare unlawful all trusts, pools, contracts, arrangements and combinations in the restraint of trade, production, manufacture or sale to fix the liability of and punish persons, firms and corporations concerned therein." Section 1 reads: "That all trusts, pools, contracts, arrangements or combinations now existing, or hereafter made with a view, or which tend to prevent full and free competition in the production, manufacture and sale of any article of domestic growth, production or manufacture, or in the importation and sale of any article of domestic growth, production or manufacture, or in the importation and sale of any article grown, produced or manufactured in any other state or country, or which are designed, or tend to fix, regulate, limit or reduce the price of any article of growth, production or manufacture, or which are designed, or tend in any way to create a monopoly, are hereby declared to be unlawful, against public policy and void." The act provides the usual penalties of fine and imprisonment for individuals, the forfeiture of charter and corporate existence for domestic corporations, and exclusion from the state for foreign corporations violating the act.

Texas.—Approved May 25. 1899. Title: An Act to prohibit pools, trusts, monopolies and conspiracies to control business and prices of articles; to prevent the formation or operation of pools, trusts, monopolies and combinations of charters of corporations that violate the terms of this act, and to authorize the institution of prosecutions and suits therefor.

Provisions: Section 1. Any corporation organized under the laws of this or any other state or country, and transacting or conducting any kind of business in this state, or any partnership, or individual, or other association of persons whatsoever, who shall create, enter into, become a member of or a party to any pool. trust, agreement, combination, confederation or understanding with

any other corporation, partnership, individual or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, or to maintain said price when so regulated or fixed, or shall enter into, become a member of or a party to any pool, agreement, combination, contract, association or confederation to fix or limit the amount or quantity of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning, storm, cyclone, tornado, or any other kind of policy issued by any corporation, partnership, individual, or association of persons aforesaid, shall be deemed and adjudged guilty of a conspiracy to defraud, and to be subject to the penalties as provided by this act.

Sec. 2. Defines monopoly to be any union or combination of capital, credit, property, assets, trade or custom, skill or acts, or of any other valuable thing, whereby any one or more of the things prohibited by this Act are accomplished or sought to be accomplished, or which tend to produce results herein prohibited; and all monopoly is pronounced contrary to public policy and prohibited under severe penalty.

The Act further prohibits manufacturers in Texas of any article from raw materials produced within the state from selling at less than cost or giving away such articles for the purpose of driving out or financially injuring competitors. It prohibits the formation of any pool or arrangement to control prices or limit competition, or the boycotting of any competitor because he does not join such combination. It forbids any new association to withhold its news from any publisher desiring the same because he is not a member of such association; requires every owner of a patent for any process for preparing for market any raw material produced in Texas to place the same or rights thereunder upon the market so that no monopoly under the same shall exist. It prohibits the sale, delivery or disposition in the state of any articles manufactured within the state or elsewhere in violation of this Act, and the purchaser of any such articles shall not be required to pay for the same if so purchased. Severe penalties attach to the violation of the Act, both fines and imprisonment.

Utah.—Approved March 9, 1896. Title: "An Act prohibiting and providing for the punishment of persons, copartnerships, associations and corporations forming pools, trusts, combinations or conspiracies," etc. Section 1 reads: "Any combination by persons having for its object or effect the controlling of the prices of any professional services, any products of the soil or of any article of manufacture or commerce, or the cost of, exchange or transportation, is prohibited and will be declared unlawful. Any person who shall violate the foregoing provisions shall be subject to prosecution and punishment as hereinafter provided." The act provides against cor-

porations and individuals violating its provisions the penalties usual in anti-trust statutes.

Washington.—Section 22 of Article XII of the Constitution of the State of Washington provides that "monopolies and trusts shall never be allowed in this state, and that no incorporated company, copartnership or association of persons in this state shall, directly or indirectly, combine or make any contract with any other incorporated company, foreign or domestic, through their stockholders or the trustee or assignees of such stockholders, or with any copartnership or association of persons, or in any manner whatever for the purpose of fixing the price or limiting the production, or regulating the transportation of any product or commodities. "The Legislature is required to pass laws for the enforcement of this section. The only anti-trust legislation adopted by the legislature of Washington was approved March 21, 1895. Title: "An Act to Regulate the Sale of Farm, Dairy, Orchard or Garden Produce on Commission." The entire Act reads as follows: "It shall be unlawful for persons engaged in the business, or commission merchants, to enter into any combination, conspiracy or pool for the purpose of artificially raising or depressing the market prices of any farm, dairy, orchard or garden produce, or to exclude from the market the produce of any particular locality grown or manufactured for any person."

Wisconsin.—Approved April 27, 1897. Title: "An Act to Prevent Corporations Organized Under the Laws of this State, From Entering Into Any Combination, Conspiracy, Trust, Agreement or Contract Intended to Operate in Restraint of Any Lawful Trade or Commerce Carried On In this State." Section 1 reads: "Corporations organized under the laws of this state are prohibited from entering into any combination, conspiracy, trust, pool, agreement or contract intended to restrain or prevent competition in the supply or price of any article or commodity in general use in this state, or constituting a subject of trade or commerce therein, or to control the price of any such article or commodity, or regulate or fix the price thereof; to regulate or limit the amount or quantity thereof to be manufactured, mined, produced or sold in this state, or to fix any standard or figure by which its price to the public shall be in any manner controlled or established." The usual procedure and penalties follow.

ANTI-TRUST LAW OF CANADA.

In 1892 the Dominion Parliament enacted Section 520 of the Criminal Code as follows:

"520. Every one is guilty of an indictable offense and liable to a penalty not exceeding four thousand dollars and not less than two hundred dollars, or to two years' imprisonment, and if a corporation, is liable to a penalty not exceeding ten thousand dollars and not less than one thousand dollars, who conspires, combines, agrees or arranges with any other person, or with any railway, steamship, steamboat or transportation company, unlawfully—

(a) to [unduly] limit the facilities for transporting, producing,

manufacturing, supplying, storing or dealing in any article or commodity which may be a subject of trade or commerce; or

(b) to restrain or injure trade or commerce in relation to any such article or commodity; or

(c) to [unduly] prevent, limit, or lessen the manufacture or production of any such article or commodity, or to [unreasonably] enhance the price thereof; or

(d) to [unduly] prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation or supply of any such article or commodity, or in the price of insurance upon person or property.

On August 11, 1899, the Parliament passed a significant amendment by striking out the word "unduly" in paragraphs (a), (c) and (d), and by striking out the word "unreasonably" in paragraph (c), as marked in brackets above.

ATTITUDE OF LABOR LEADERS.

The attitude of the leaders of organized labor in the United States toward the monopoly trust system at the beginning of the year 1900 may be thus summarized: They advise no crusade against trusts, first because they apprehend that anti-trust measures may, on occasion, be used against the labor unions themselves; and, second, because in their judgment the trust movement is, with sufficient rapidity and with entire certainty, leading up to that form of socialism which consists in government ownership and management of all great industries—see the resolutions adopted at the annual meeting of the American Federation of Labor held in Detroit in December, 1899. The obvious comment on such an attitude is this: 1. Anti-trust statutes, or laws against conspiracy and monopoly, can only be invoked against abuses of the right of combination among workingmen—as in the case of the Debs riot in 1894, which by destructive violence obstructed interstate commerce and the United States mails. Good citizens, whether wage-earners or otherwise, approve of suppressing riot, preserving order and protecting property and life. Organized labor, acting within the lines of good citizenship, has nothing to fear from anti-trust legislation. That battle has been fought and won, and the great body of workingmen evidently take this view. 2. If it is true that the trust movement is leading up to socialism the mass of workingmen, in common with the people generally, will see in this fact a reason for opposing, not acquiescing in, that movement. Whatever the leaders may think, the rank and file of wage-earners in the United States have not been bitten by the socialistic flea.

CHAPTER XI.

LIST OF LEADING AMERICAN TRUSTS.

The 130 principal trusts and consolidations in the United States, each capitalized at $10,000,000 or more, embraced in the subjoined list, represent an aggregate capital in stock and bonds as follows:

Common stock	$2,784,218,000
Preferred stock	1,141,643,000
Bonds	88,288,000
	$4,014,149,000
Estimated combined capital (stock and bonds) of general corporate trusts in the United States of less than $10,000,000 each	600,000,000
Estimated capital (stock and bonds) of local corporate trusts in the United States, each having a virtual monopoly in its own field, not including tramway or transportation companies, syndicates, "combines" or other trade agreements	385,851,000
Approximate grand total	$5,000,000,000

Any list of American trusts is necessarily incomplete very soon after its date, since new ones are constantly forming, but inasmuch as most leading manufacturing industries in this country have now been merged in trusts, subsequent additions are likely to be relatively unimportant. The following list has been compiled at the close of 1899, from all accessible sources of information. Special acknowledgments are due to Mr. Byron W. Holt, whose compilation published in the Review of Reviews and in the Commercial Year Book for 1899 were very full at the date of their publication; to the editors of the New York Commercial and Financial Chronicle, and

to Mr. Charles R. Flint of New York, who has courteously furnished the editor all the data gathered by his own house.

The present conservative exhibit is intended simply to give information as to the number and character of leading American industries which have been practically unified under a single ownership, and the amount for which each consolidation is capitalized in stock and bonds combined. Wherever the facts have been obtainable only the amount of securities actually issued is given herein. The aim has been to include only such industrial undertakings as involve the combination of two or more concerns, and for the most part each organization named is a typical trust, which means a single corporation that has purchased the plants and businesses of all or a great majority of competing concerns in the same line in the country so as to control the industry and enjoy a virtual monopoly thereof. Obviously, in this sense, such corporations as the Federal Steel and Republic Steel are not strictly trusts, for until they themselves consolidate they are in substantial competition. Only those general trusts are embraced in the list which have a capitalization of ten million dollars or more. The lesser ones, usually consolidating small industries, are very numerous, and in the aggregate represent a large volume of capital.

Dividing trusts into local and general, the former have been omitted in the interest of brevity and clearness, and only the latter included. As an example of what is meant by local trusts, of which a very large number exist, the Maryland Brewing Company, with a capital of $13,800,000, has purchased and now operates plants representing six-sevenths of the brewing capacity of Baltimore and vicinity, and aims to absorb the remainder. Industries like this, which are necessarily local and limited in character, seem to be quite as much the subject of monopolization as are those of national scope. In a few instances, organizations are listed which are incomplete, and some of these may fail of consummation because of the greater caution manifested by banks and investors and the comparative disfavor into which many trust securities have already fallen.

With two or three exceptions, by way of example, no mention is made of those innumerable trade agreements or understandings which exist throughout the country among independent and competing concerns for the purpose of somewhat regulating competition, such as associations of wholesale dealers, express companies and other common carriers, insurance corporations, retailers in cer-

tain lines and some manufacturing interests. Such voluntary associations for mutual protection against destructive forms of business rivalry seldom fix and could not long maintain exorbitant prices, and otherwise they have little in common with the typical monopoly trusts. Most exhibits of trust organizations hitherto published have included the largest of these loose trade associations, giving approximate estimates of capital involved, thus abnormally swelling the aggregate of capital purporting to be represented by the trust movement. This ill-advised practice has resulted in the widely published estimate of eight thousand million dollars as the total capitalization of trusts—a great exaggeration. With few exceptions we have also omitted all those legitimate "industrials" which are simply great independent corporations engaged in large-scale production, but having and seeking no monopoly advantage, like Carnegie's and the Baldwin Locomotive Works. The capital of each organization, as given herein, includes common stock, preferred stock and bonds. Of the one hundred and thirty concerns listed only nineteen have, so far as known, issued bonds. Of the total capitalization named herein it is a reasonable estimate that 60 per cent. is "water." Ninety-five per cent. of the trusts here named were organized in New Jersey, although not more than five per cent. of them have plants, or offices other than technical, in that state.

	CAPITAL.
Amalgamated Copper Company	$75,000,000
American Agricultural Chemical Company (23 fertilizer plants)	40,000,000
American Alkali Company	30,000,000
American Beet Sugar Company	19,000,000
American Bicycle Company	40,000,000
American Car and Foundry Company (railroad cars)	55,000,000
American Cotton Oil Company (123 properties)	33,600,000
American Electric Heating Corporation	10,500,000
American Fisheries Company (Menhaden oil, 18 companies)	10,000,000
American Window Glass Company (majority in the U. S.)	30,000,000
American Gas and Electric Lighting Fixture Company	15,000,000
American Hide and Leather Company	60,000,000
American Ice Company (to control output of Maine)	60,000,000
American Linseed Oil Company (82 plants, 85 per cent in country)	28,500,000
American (Sewing) Machine Company	10,000,000
American Malting Company (30 companies; nearly all in the U. S.)	29,000,000
American School Furniture Company	11,500,000
American Ship Building Company	30,000,000
American Silk Manufacturing Company (silk thread)	12,500,000
American Smelting and Refining Company	54,000,000
American Spirits Manufacturing Company (whisky; 18 districts)	37,000,000
American Steel and Wire Company (controls wire industry, etc., in the U. S.)	90,000,000

	CAPITAL.
American Steel Hoop Company	$33,000,000
American Sugar Refining Company	74,000,000
American Thread Company (13 cotton thread companies)	18,000,000
American Tin Plate Company (290 mills, practically all in U. S.)	50,000,000
American Tobacco Company (plug business sold in 1898)	51,000,000
American Woolen Company (men's woolens, mills in New England)	65,000,000
American Writing Paper Company	42,000,000
American Bridge Company (incomplete)	65,000,000
American Chicle Company (chewing gum trust)	10,000,000
American Grass Twine Company	15,000,000
American Iron and Steel Company	25,000,000
American Plumbing Supply Company	35,000,000
American Pneumatic Service	15,000,000
American Radiator Company	10,000,000
American Railway Equipment Company	22,000,000
American Switch Company	11,000,000
American Thresher Company (forming to control 70 per cent of plants in the U. S.)	60,000,000
American Vinegar Company	11,000,000
American Watch Machine Company	12,000,000
American Window Glass Company	17,000,000
Asphalt Company of America	30,000,000
Atlantic Snuff Company (all but two companies in U. S.)	10,000,000
Bessemer Ore Association	20,000,000
Borden Condensed Milk Company	20,000,000
California Wine Makers' Corporation (allied with California Wine Association)	10,000,000
Central Lumber Company of California	70,000,000
Chemical Association (combination of pharmaceutical manufactories)	50,000,000
Columbian and Electric Car Lighting and Brake Company	10,000,000
Consolidated Ice Company (12 companies in New York, Philadelphia and Maine)	11,250,000
Consolidated Rubber Tire Company	10,000,000
Consolidated Street Car Company	18,000,000
Continental Cement Company	10,000,000
Continental Tobacco Company (7 plug companies and plug interests of American Company)	92,000,000
Diamond Match Company	11,000,000
Distilling Company of America	125,000,000
Dominion Iron and Steel Company	20,000,000
Electric Boat Company	10,000,000
Electric Storage Battery Company (absorbed competitors in 1895)	18,500,000
Edison Portland Cement Company	11,000,000
Federal Carriage Company	20,000,000
Federal Printing Ink Company	20,000,000
Glucose Refinery Company	40,000,000
Indo-Egyptian Compress Company	15,000,000
International Cement Company	50,000,000
International Paper Company (25 news print paper manufacturers east of Chicago)	49,000,000
International Car Wheel Company	15,000,000
International Pump Company	27,500,000
International Silver Company (24 companies; 75 per cent of silver plate in U. S.)	19,000,000

	CAPITAL.
International Smokeless Powder and Dynamite Company	$10,000,000
Kern Incandescent Light Company	12,000,000
Lake Superior Consolidated Iron Mines	28,752,000
Marsden Company of Philadelphia (cellulose trust)	32,000,000
Mt. Vernon Woodbury Cotton Duck Company	23,500,000
National Biscuit Company (90 per cent of large bakeries in the U. S.)	54,000,000
National Carbon Company (all companies in the U. S. and three-fourths in the world)	10,000,000
National Carpet Company (not completed)	50,000,000
National Enameling and Stamping Company (consolidating four principal companies in the U. S.)	30,000,000
National Lead Company (26 plants for white lead, etc.)	30,000,000
National Car Equipment Company	10,000,000
National Electric Company	25,000,000
National Glass Company	20,000,000
National Tin Plate and Stamping Ware Company	20,000,000
National Salt Company (95 per cent in the U. S.)	12,000,000
National Screw Company	10,000,000
National Starch Manufacturing Company (20 plants; price agreement with other companies)	11,000,000
National Steel Company	58,000,000
National Tube Company (absorbs 17 corporations)	65,000,000
National Wall Paper Company (forming by absorption of 30 companies or more)	35,500,000
New England Cotton Yarn Company	19,000,000
New England Electric Vehicle and Transportation Company	25,000,000
New York Electric Vehicle Company	25,000,000
Otis (passenger) Elevator Company (13 companies; 85 per cent product in the U. S.)	10,000,000
Planters' Compress Company	15,000,000
Pittsburg Plate Glass Company	10,000,000
Pressed Steel Car Company	25,000,000
Print Cloth Pool (30 mills; restricts production and fixes prices)	50,000,000
Reading Company (anthracite coal trust)	150,000,000
River Coal Operators' Company (Pittsburg to New Orleans)	11,000,000
Royal Baking Powder Company (consolidation of all companies)	20,000,000
Rubber Goods Manufacturers' Company (consolidation of mechanical goods companies)	50,000,000
Standard Distilling and Distributing Company (whisky)	24,000,000
Standard Oil Company (owns 83 per cent U. S. refineries, etc.)	110,000,000
Sloss, Sheffield S. and I. Company	20,000,000
Standard Rope and Twine Company (sells through Union Selling Company)	22,400,000
Steel Beams Association (fixes prices)	20,000,000
Steel Rail Manufacturing Association (agreement; all large companies)	50,000,000
Swift & Co. (beef)	17,500,000
Tennessee Coal, Iron and Railroad Company (plants in Tennessee and Alabama)	30,700,000
Union Bag and Paper Company	27,000,000
Union Steel and Chain Company	60,000,000
Union Tobacco Company	19,000,000
Union Typewriter Company (five leading corporations)	18,000,000
United Fruit Company	20,000,000

	CAPITAL.
United Lighting and Heating Company (eight companies; oil lighting interests in the U. S.)	$12,000,000
United Shoe Machinery Company	17,000,000
United States Cast Iron Pipe and Foundry Company (13 companies; practically total capacity in the U. S.)	30,000,000
United States Dye Wood and Extracts Company (uniting all in the U. S.)	10,000,000
United States Envelope Company	10,000,000
United States Flour Milling Company	50,000,000
United States Glue Company	40,000,000
United States Leather Company	70,000,000
United States Rubber Company (controls boot and shoe output of the U. S.)	52,000,000
United States Varnish Company (practically whole capacity in the U. S.)	36,000,000
United States Vehicle Company	25,000,000
United States Worsted Company	70,000,000
Union Match Company	10,000,000
Westinghouse Electric and Manufacturing Company (owns the U. S. Electric Locomotive Company and Water Company, and pools with General Electric)	16,000,000

Incidental confirmation of Mr. Percy Sanderson's statement herein concerning trusts in Great Britain is furnished in a press cablegram from London, showing that only at the close of 1899 is the real trust movement reaching England from New York, and that the success of the movement there depends upon the stability of the American trusts, after which the British organizations are patterned. The following appeared in the Chicago Tribune of December 28, 1899, as a "special cable to the Chicago Tribune by Arthur L. Clarke," and under the heading "New Trusts in England:"

"London, Dec. 27.—The December break in industrials on Wall street was not particularly welcome to London operators. The trust idea is just beginning to take root in England. Already several big combinations in the cotton industry have been floated, the latest with a capital of $75,000,000. Others equally big are hatching. Any collapse in American industrials is, therefore, a matter of grave concern to English promoters, who base their prospective profits on American precedents. The result will possibly lead to freer dealings in industrials, placing these among the international list, the only difficulty probably being in getting the American trust stocks listed on the London Stock Exchange, but in its present temper even this is hardly an insuperable obstacle."

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TRUSTS OR COMPETITION?

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